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ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

HELD AT

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I N D E X

Page No.

EDSFORTH, C.D.

Cross-examination

By Mr. Mauro

19527

By Mr. Frawley

19602

RULING RE SITTINGS

19598

NO EXHIBITS IN THIS VOLUME



ANGUS, STONEHOUSE & CO. LTD.
TORONTO, ONTARIO

ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held
in the Court Room, Board of
Transport Commissioners
Offices, Ottawa, Ontario, on
the 14th day of November, 1960.

COMMISSION

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Mr. H. Anscomb	Member
Mr. A. H. Balch	Member
Mr. R. Gobeil	Member
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Mr. A. G. Cooper, Q.C.	
Mr. G. S. Cumming	
Mr. H. W. Ellicott	Adviser
Mr. F. W. Anderson	Secretary
Major N. Lafrance	Assistant Secretary



Ottawa, Ontario,
Monday,
November 14, 1960.

--- On commencing at 10:00 a.m.

THE CHAIRMAN: Order, please. This morning we have Mr. Edsforth.

MR. FRAWLEY: Yes, Mr. Chairman. Before the proceedings begin today, I would like to call special attention to something which has struck me very forcibly, and I refer to the death on Saturday last of Mr. Clarence Jefferson who for many years was Vice-President of Traffic of the Canadian Pacific Railway.

I knew Jeff for many years, long before the famous Revenue cases began. Many years before that, I had to do with him in western Canada, and at that time I was first introduced to the tenacity of purpose of the Canadian Pacific Railway officials, and my education along those lines grew through the many years that I knew him after that, and particularly after the Revenue cases started in 1946 and through the Royal Commissions.

All of the Canadian Pacific officials have been very good friends of mine outside the Court Room, but perhaps in a way Jeff held first place among those friends. He was an extraordinarily good friend. If I may come to even a more personal note, I remember very keenly his extraordinary kindness to my wife when she was at the Neurological Hospital in Montreal, and was about ready to come home, and Jeff was kind enough to



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2 bring her home in his private car.

3 I extend my condolences to his family, and I
4 think it is very suitable that we should here pay tribute
5 to his memory, where he in the days gone by played such
6 a prominent part in all the proceedings that took place
7 in this Court Room.

8 MR. SINCLAIR: Mr. Chairman, on behalf of
9 Canadian Pacific who had the advantage of Mr. Jefferson's
10 abilities and his great devotion to duty for so many years,
11 we feel very, very strongly about his passing. It is
12 rather remarkable, sir, that at the time of his death
13 the people that he trained were engaged in matters that
14 were always dear to him -- that is the freight rate
15 structure of Canada.

16 Both Mr. Edsforth, Mr. Roberts and Mr. Miller,
17 who have been the freight traffic officers of Canadian
18 Pacific during these proceedings, each and everyone were
19 trained by Mr. Jefferson. As far as myself is concerned,
20 many, many days and nights he spent with me trying to get
21 me to understand some of the things that he had learned
22 down through the years. In doing it, he always demanded
23 the best, and he was rather impatient at times when
24 people did not work just as quickly and as hard as his
25 great abilities enabled him to do, but he was very
26 understanding about that. And, after many years, he
27 began to see in Mr. Edsforth and Mr. Roberts some of the
28 knowledge that he had acquired being made available to
29 others on the witness stand.

30 We, in Canadian Pacific, liked to work with



1
2 him, but we always liked to be with him even outside
3 work. He did a great job for Canadian Pacific, and we
4 think for Canada. He certainly did not spare himself
5 and his untimely death, I think, was in part caused by
6 the great efforts he made in doing his work.

7 We understand that the Commission, in view of
8 the close association of Mr. Jefferson to Mr. Edsforth,
9 Mr. Roberts, and myself, have kindly consented to allow
10 us to be absent tomorrow to attend his funeral. We
11 appreciate that, and we appreciate the understanding
12 of our friends in recognizing the situation, and we thank
13 the Commission.

14 MR. McDONALD: Mr. Chairman, on behalf of the
15 Canadian National I wish to extend to Mr. Jefferson's
16 family and to the officers of the Canadian Pacific our
17 regrets at this time at his untimely passing. I have
18 heard of Mr. Jefferson for years, but probably I did not
19 know him personally as well as a number of you here, but
20 I have known him for the last ten years. His views were
21 always highly respected in the railway industry, and
22 there will be a great loss at his passing at this time.

23 THE CHAIRMAN: Gentlemen, I also knew Mr.
24 Jefferson, and I speak now not only as Chairman of this
25 Commission but in a personal way. I had the greatest
26 affection for him, and while we met on the terms of
27 antagonism, so to speak, we were always very close friends.

28 Mr. Jefferson, to my mind, made a great
29 contribution to the life of transportation in Canada.
30 He was born, I think, in the U.S.A., but he was one of



1
2 those imports that enriched very much the life of this
3 country.

4 I think we should stand for a moment in honour
5 of his memory.

6
7 --- (Few moments silence) ---
8

9 THE CHAIRMAN: I can also understand you wish
10 to be away tomorrow, Mr. Sinclair, and at the recess we
11 will consider whether or not the whole Commission should
12 not adjourn tomorrow, for we have other work to do, as
13 you can understand.

14 MR. SINCLAIR: Thank you, sir.

15 Mr. Edsforth, please.
16

17 C.D. EDSFORTH, recalled
18

19 CROSS-EXAMINATION BY MR. MAURO:
20

21 Q. To begin with, Mr. Edsforth, I would
22 appreciate it if we could perhaps clarify a matter that
23 was introduced into the evidence by the Canadian Pacific
24 Railway in conjunction with exhibit 162. Perhaps Mr.
25 Roberts could let you have that exhibit.
26

27 Exhibit 162 is entitled "Carload traffic via
28 Canadian Pacific Railway, comparison of revenue as a
29 result of 17% rate increase taken from waybills reported
30 for board's 1% study December, 1958 to November, 1959
inclusive, excluding traffic at United States related



(Mauro)

1
2 rates".

3 A. Yes, I have it here, Mr. Mauro.

4 Q. As I understand this exhibit, Mr. Edsforth,
5 the figures under the first column "revenues at rates in
6 effect time of movement" represents approximately 1% of
7 the revenue for CPR traffic subject to the 17% increase.

8 A. Yes, it was taken from the waybills we
9 submitted to the Board of Transport Commissioners in the
10 1% study, and I would say it is in the range of 1%, one
11 way or the other.

12 Q. As I read that exhibit, the revenue from
13 this traffic would amount to approximately \$189,800,000,
14 so we have simply multiplied the total by 100?

15 A. Yes, that would be so, Mr. Mauro.

16 Q. I understand that the figures under the
17 column headed "revenue at rates in effect November 30,
18 1958" represents approximately 1% of the revenue of this
19 traffic excluding the actual increases?

20 A. Yes, that is revenue from this traffic,
21 Mr. Mauro, re-stated at the rates which applied on
22 movements of that kind at November 30.

23 Q. At November 30?

24 A. Yes.

25 Q. And I understand, again, from this
26 exhibit that this total amounted to approximately
27 \$172 million dollars, or \$1 million 720 multiplied by
28 100?

29 A. If you multiplied it by 100, but, of
30 course, there would be some variation.



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2 Q. But we are within the same range?

3 A. It is in a range of 1%.

4 Q. In the judgment of the Board of Transport
5 Commissioners dated November 17, 1958, file 48771,
6 appendix page 4, which is the 19% case ---

7 A. Yes, I have it here.

8 Q. The exhibit, or the appendix page 4 which
9 I am referring to is entitled "Estimated results of a
10 general freight rate increase of 19%", and I think at
11 this time ---

12 MR. SINCLAIR: Page 30.

13 MR. MAURO: Q. Yes, page 30 of the Judgment,
14 I'm sorry.

15 A. Yes, I see it, Mr. Mauro.

16 Q. Perhaps in this context -- we have
17 prepared a few figures that we will be referring to.

18 A. Yes.

19 Q. This is a document, Mr. Chairman, entitled:
20 "Comparison of estimated and actual traffic revenue
21 subject to freight rate increase".

22 Now, in that Judgment, page 30 of the Order,
23 Mr. Edsforth, it was based on a 19% increase, as you are
24 aware, plus a 25¢ per ton on coal and coke?

25 A. Yes, that is right.

26 Q. Now, under column 3 of that judgment or
27 Order we find an amount of 50.6 million dollars opposite
28 competitive rates, which I understand was the Canadian
29 Pacific Railway estimate of the traffic which would move
30 at competitive rates subject to the proposed increase?



1
2 A. Yes, that was our estimate of the traffic
3 when we prepared the exhibit in 1958.

4 Q. And the statement that we have just
5 passed around, Mr. Chairman, shows that under the heading
6 of "Appendix page 4 Board Judgment estimated revenue
7 subject to increase ... competitive 50.6".

8 Now, the actual figure which I quote from the
9 CPR exhibit 162 shows that there was 58.9 million dollars
10 actually received or realized by the CPR from competitive-
11 rated traffic.

12 A. That is based on the figure of 589,000
13 which you have multiplied by 100?

14 Q. Yes.

15 A. Yes.

16 Q. Now, we want to have everything completely
17 on record. The exhibit in the Board's Judgment was for
18 the period January 1 to December 31. The exhibit which
19 Mr. Roberts filed as exhibit 162 is for a twelve month
20 period, January 1 to December 31. The exhibit which
21 Mr. Roberts filed as exhibit 162 is for a twelve month
22 period, December 1 to November 30. I think we are
23 dealing with periods that are relevantly comparable;
24 so that the CPR has realized 8.9 million dollars more
25 from competitive rates than they had estimated at the
26 time of the application.

27 THE CHAIRMAN: 8.3.

28 MR. MAURO: Well, yes, 8.3.

29 THE WITNESS: Well, of course, Mr. Mauro,
30 following the rate increase, and I think as Mr. Roberts



1
2 explained in his evidence, the revenue that is shown
3 from traffic from competitive rates was based on the
4 rates that applied on the movements as they actually took
5 place, and that might well have included some traffic
6 which in 1958 was moving at normal rates and had moved
7 over into the competitive category. So that would make
8 a difference.

9 Q. Yes. And, then, we will look at the next
10 item in the Board's Judgment regarding agreed charges,
11 and we find that the CPR estimated they would receive
12 48.4 millions of dollars from the increase under agreed
13 charges?

14 A. Yes, that is right.

15 Q. And exhibit 162 shows that you have
16 realized \$36 million dollars. Perhaps you could explain
17 where the \$12 million dollars has gone which you
18 estimated you would receive from agreed charge traffic?

19 A. Of course, again, Mr. Mauro, this is
20 based on a 1% sample, we shall say, and therefore the
21 aggregate figures may or may not be within range, as I
22 already said.

23 There is a swing -- it could be 1%, or it
24 could be less than 1%, or more, as the case may be.

25 Q. \$12 million dollars worth, Mr. Edsforth?

26 A. Well, it is hard to say about that, Mr.
27 Mauro.

28 Q. I think that your opinion as an expert
29 on this is very valuable to this Commission. Do you
30 personally feel that exhibit 162 could be out \$12 million



1
2 dollars on \$36 million dollars?

3 A. Well, I would not think it should be,
4 Mr. Mauro, no. I do not think it should be.

5 Q. The figures would be rather ---

6 A. It should be in a better range than that.

7 Q. Yes, it certainly should be in a better
8 range than that. So there is \$12 million dollars. We
9 can understand the competitive rates could realize \$8
10 million dollars more than you estimated, because certain
11 traffic moving under normal rates might fall now under
12 competitive rates, and you could realize more money than
13 you had anticipated. Now, your agreed charges, when you
14 have a short fall of \$12 million dollars, if that is an
15 accurate statement, Mr. Edsforth, would one of the
16 reasons be a loss of volume? Where could traffic go
17 if it was not under agreed charges?

18 A. A loss of volume under agreed charges?
19 Well, there might be some falling-off in traffic under
20 the agreed charges, depending on how business goes, Mr.
21 Mauro. There are fluctuations in business, you know,
22 and some of the commodities covered by agreed charges
23 might move in a little different way than others. It
24 is hard to say.

25 Q. But there is \$12 million dollars?

26 A. There is a difference in your figures
27 here.

28 Q. Well, they are your figures; they are not
29 mine.

30 A. 162 is your figure, blown up from ours,



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I will say that.

Q. Well, do you think there is anything improper about multiplying a 1% sample and coming within a range that you and I can discuss?

A. Well, I do not know. Of course, it depends on the sample itself. But you are taking some swings in the movement when you multiply by 100. obviously.

Q. This exhibit was obviously placed before this Commission by the CPR, Mr. Edsforth, to give an accurate statement of the CPR's experience since the increase was put into effect?

A. Well, of course, Mr. Mauro, that is so, but this exhibit did not purport to show a full year's business. It said that it was only the 1% sample, that is all.

Q. Oh yes, and it makes it very clear the period it covers. But, to the extent it is a twelve month period, it should reflect if it is going to have any probative value before this Commission the actual experience of the CPR to the extent that the 1% can reflect it?

A. Yes, I would agree with that.



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Q. Then, under the Board's Judgment again coal and coke was to realize \$15½ million dollars and all other freight traffic \$132.7 million dollars and the total of those two figures is \$148.2 million dollars.

A. Yes, \$148.2 million dollars.

Q. In exhibit 162 the remaining items in the schedule headed "Traffic or normal rates" totals \$77 million dollars which is nothing more and nothing less than blowing up the \$770,000?

A. Yes.

Q. And I wonder if you could explain to the Commission this shortage of revenue of \$71 million dollars.

A. Well, again, I say it all depends on how good the sample is in relation to the 1% figure. Now, whether it works out that way or not I could not say but certainly there is quite a difference there, I agree with that. There may be many explanations for it. For one thing, of course, as I noted earlier on, there is some traffic that moves from the normal category into the competitive, that is one answer.

Q. Yes.

A. Other than that I think it is just general swings of finance.

Q. \$71 million dollars in the general swing.

A. Well, there certainly is not that much of a swing in our total revenue for the year. There was a swing, I think in 1959 as compared with 1958 of some \$12 million dollars.



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2 Q. Well, the totals under the Board's Order
3 was \$247 million dollars as per the statement of Manitoba
4 as prepared?

5 A. Oh, it is in accordance.

6 Q. Yes, and according to your exhibit 162
7 \$172.1 million dollars. Now, in speaking to the increase
8 in 1958, your statutory rates amounting to \$37.7 million
9 dollars and international traffic of \$121 million dollars
10 make a total of \$406 million dollars of freight traffic.

11 A. That is right.

12 Q. Now, I look at the annual report and the
13 reason there was an explanation is because I look at the
14 annual report for the Canadian Pacific Railway's 1959
15 and I find railway revenue freight \$406 million dollars.
16 In other words, the estimate which the CPR gave to the
17 Board of Transport Commissioners of \$406 million dollars
18 seems to be corroborated by the annual report of the
19 company that the Canadian Pacific Railway did, in fact,
20 receive \$406 million dollars of freight. But, exhibit
21 162 seems to fail to account for \$70 million dollars of
22 freight revenue -- \$75 million dollars to be exact?

23 A. Yes.

24 Q. Now, I want to know whether or not you
25 think this Commission should accept exhibit 162 as being
26 an authentic, valid statement of revenue received even
27 though you cannot account for \$75 million dollars.

28 A. Well, I think you have to accept the
29 exhibit as showing exactly what it shows, a 1% study
30 which showed what happened in that sample traffic.



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2 Q. And even though applying it by your 1%
3 sample as has a short fall of \$75 million dollars, you
4 say that is an exhibit that is worthy of credibility?

5 A. Yes, I think so, certainly. It shows
6 what happened on that 1% sample and that is all it
7 purported to show.

8 COMMISSIONER ANSCOMB: May I ask is there any
9 comparable figure to the coal and coke \$15 $\frac{1}{2}$ million
10 dollars?

11 MR. MAURO: No, unfortunately exhibit 162
12 does not break them down, they are together in that.
13 They are under normal rates, apparently.

14 Q. Now, also, referring to page 18101 of
15 your testimony which is daily volume 109 ---

16 A. Yes, I have it here.

17 Q. You stated there, you were discussing
18 this matter of interlying rails and you said:

19 "I do not understand that Manitoba suggests
20 that a full line of rates be published between
21 all stations specifically point to point on
22 such a basis. I would certainly hope not,
23 because such a publication would be a
24 tremendous thing to accomplish".

25 A. Right.

26 Q. I simply want to collaborate your
27 understanding of it that Manitoba is not suggesting that
28 a new set of rates be published between all stations on
29 a point to point basis.

30 A. Yes.



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2 Q. So any fears you may have as to the
3 task of publication are now removed as between the
4 CPR and Manitoba.

5 A. I did not think you really intended that
6 so I had no fears.

7 Q. Would you agree that under the Manitoba
8 proposal re-interlying rates a master mileage tariff
9 could be prepared against which the various mileage
10 scales both class and commodity could be applied?

11 A. A master mileage tariff? Could you
12 elaborate on that, explain what you mean by a master
13 mileage tariff?

14 Q. Well, you would have a single tariff
15 from which you could determine the mileage between all
16 points in Canada and you would have a scale applicable,
17 a class commodity scale which you would simply apply to
18 that mileage?

19 A. Between all points in Canada calculated
20 on the basis of what Manitoba suggested?

21 Q. Yes -- well, we are not being dogmatic
22 about this, you may take a grouping system of average
23 points in an area and set up your mileage scale on
24 that base point?

25 A. What you say is to have a mileage tariff
26 that shows distance between every two stations in
27 Canada located on all lines of railway. That is what
28 I understood you to say.

29 Q. There would be one mileage tariff, one
30 master mileage tariff showing the mileage between all



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2 points and there would be a scale of class and commodity
3 rates which you would simply apply against that
4 particular mileage.

5 A. Well, I would hate to have to lift that
6 tariff because it would be a tremendous thing, just
7 enormous. I know a number of years ago the Canadian
8 National attempted to have one put out just within
9 eastern Canada and they had it on very thin paper and
10 it was well over a foot thick or more, it was a
11 tremendous thing. Now, what you are suggesting here,
12 I do not think you can get it into one tariff that
13 would be workable.

14 Q. Is that not just what is in fact being
15 done in United States?

16 A. One mileage tariff?

17 Q. A master mileage tariff?

18 A. I have never seen it, Mr. Mauro, never
19 seen such a thing. Now, the railways have their own
20 individual distance tables and they do work out mileages
21 when they are putting in a class rate basis but I do
22 not know the master mileage tariff, I have not seen it.

23 Q. Perhaps we can ascertain that and put
24 the evidence in if our understanding of it is correct.
25 At page 18101 towards the bottom of the page you state
26 as follows:

27 "Now, also, I must take strong exception to
28 the suggestion that the rates be constructed
29 by using the shortest through-rail mileage,
30 regardless of whether the traffic moves via



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2 that junction or not. In other words, what
3 we term in the railways trick mileages. That
4 is, the rates would be constructed by some
5 theoretical route which would not be used,
6 or would not necessarily be used. That
7 immediately introduces, in my opinion,
8 constructive mileages into the freight rate
9 structure. And those were disallowed by the
10 Board of Transport Commissioners under
11 equalization following the finding of the
12 first Turgeon Royal Commission. In other
13 words, they said constructive mileages must
14 not be employed in constructing the equalized
15 class rates."

16 A. Yes.

17 Q. Do you not now construct rates regardless
18 of whether the traffic moves via that junction point or
19 not? The Canadian Pacific class rates Edmonton to
20 Vancouver based on the Canadian National mileage
21 although the traffic moves by much longer route,
22 Edmonton to Calgary to Vancouver?

23 A. Yes, we use the competing line distance
24 there too, that is a matter of choice with no compulsion
25 on us to do it. We may do it or may not.

26 Q. Is it any less of a trick mileage or
27 constructive mileage whether you choose to do it?

28 A. It is not a constructive mileage because
29 the rates are based on the short line distance that
30 could handle the traffic all over this system.



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Q. Even though you take the long way around, Edmonton to Calgary to Vancouver you give the Edmonton shipper a short mileage Edmonton to Vancouver but that is not a constructive or trick mileage?

A. No, because the Edmonton shipper already has it by using Canadian National direct.

Q. Do you know of any other of these trick mileages or constructive mileages?

A. Where?

Q. On the Canadian Pacific.

A. Well, that is not a trick mileage.

Q. We do not agree that is a trick mileage because you put that in voluntarily but do you know of any others that may be termed trick or constructive mileages?

A. Not calculated in the way Manitoba's submission would have it, no.

Q. Are you familiar with Canadian Pacific tariff W318-D, CTC tariff W3893 and it is entitled:

"Canadian Pacific Railway Company. (Lines Port Arthur, Ont., and West Thereof). Local Freight Tariff governing Absorption of Freight Charges. All-Rail or Lake-And-Rail Traffic to or From United States Points. On traffic moving between stations on Canadian Pacific Railway (west of West Fort William, Ont.), Northern Alberta Railways and Winnipeg River Railway, and Stations in Central Freight Association Territory, stations in the eastern



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2 United States and which the Canadian Pacific
3 Railway receives from or delivers to
4 connecting lines at junctions east of Kenora,
5 Ont., the Canadian Pacific Railway will absorb
6 out of its proportion of the freight charges,
7 the amount by which the through charges via
8 route of movement, exceed the through charges
9 based on the lowest combination of rates
10 available through any international border
11 point west of Kenora, Ont."

12 A. Yes, I know that tariff.

13 Q. I wonder if you could explain to this
14 Commission what is the effect of that tariff on movement
15 from eastern United States into western Canada?

16 A. Yes, what that tariff does is permit
17 Canadian Pacific to accept via its long haul junctions
18 or long haul routes the rates which would be applicable
19 via a junction point which could be a shorter haul.
20 All it does is equalize the rates, one routing versus
21 another. That is quite a common practice in railways.

22 Q. Does that result in the Canadian Pacific
23 granting to shippers who can come under this tariff a
24 trick or constructive mileage?

25 A. Not at all, because the shipper can get
26 the benefit of that rate by routing it through another
27 junction so the shipper gets no particular benefit from
28 that at all.

29 Q. That does not come under that statement
30 of yours at page 18101:



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2 "That is, the rates would be constructed
3 by some theoretical route which would not be
4 used, or would not necessarily be used."

5 The fact you give them a short run mileage
6 through a point in eastern United States via Canadian
7 Pacific, that is not a theoretical route?

8 A. They do not get a short run mileage
9 at all as it affects the level of the rate because of
10 the Canadian National. This is a rate that a shipper
11 would receive, would get by routing it through some
12 other junction so there is no difference as far as
13 shipper goes. It is not a theoretical rate, it is
14 an actual rate through which the traffic can move.

15 Q. We will talk about responsiveness. You are
16 suggesting, permitting a mileage which is really 1,000
17 to be calculated at 800 because he could obtain an
18 800 mile haul on another carrier, is that not a
19 theoretical rate?

20 A. No, not all the traffic can move that
21 way.

22 Q. And that is not a theoretical mileage?

23 A. That is the actual mileage that would
24 apply via that route.

25 Q. What about the Canadian Pacific, is that
26 the actual mileage?

27 A. Which?

28 Q. The 800 instead of the actual mileage
29 of 1,000?

30 A. The mileage of 800 which I presume you



1
2 have checked as being some other junction, that would
3 be on Canadian Pacific, of course it would.

4 COMMISSIONER BALCH: Your truck mileage would
5 be really theoretical mileage.

6 THE WITNESS: It would, sir, under this
7 proposal.

8 COMMISSIONER BALCH: You have mentioned this
9 going from Edmonton to Vancouver: Edmonton, Calgary,
10 Vancouver.

11 THE WITNESS: Yes.

12 COMMISSIONER BALCH: That is not trick mileage
13 because it is not your theory, it is an actual fact.

14 THE WITNESS: That is right, it is an actual
15 fact. Actually, the rate level is based on the mileage
16 of Canadian National from Edmonton to Vancouver.

17 Q. Not theoretical?

18 THE WITNESS: Nothing theoretical about it,
19 it is an actual fact and the traffic that moves from
20 Edmonton to Calgary to Vancouver, there is nothing
21 theoretical about that, that is the way the traffic
22 moves.

23 MR. MAURO: Q. Would you clarify the
24 difference between that and the constructive mileage
25 from the head of the lakes to Winnipeg, the movement
26 was some 400 miles and the rate was on a basis of 300
27 some odd miles -- 290.

28 A. What are we discussing here?

29 Q. What Commissioner Balch has introduced,
30 he wants to get clear in his mind the difference between



1
2 a theoretical or trick mileage and what you are doing
3 by establishing a rate of 800 miles instead of the
4 actual movement of 1,000?

5 A. You are coming back now to the United
6 States to western Canada?

7 Q. Yes.

8 A. But the rate actually is made up of the
9 lowest combination over any junction point and that is
10 the rate the shipper pays so there is no trick mileage
11 employed in constructing that rate. Just because the
12 Canadian Pacific handles it by another route, that does
13 not make it trick mileage.

14 Q. So you would be willing to apply that
15 principle that you have now enunciated that the rates
16 will be made to apply over the shortest lines through
17 a common junction regardless of the actual way it moves,
18 are you willing to give that factor throughout the
19 system? In other words, we will get into some other
20 movements in western Canada in a moment but, as I
21 understand your philosophy now, there is nothing --
22 as I understood what you said to Commissioner Balch,
23 you now set a rate vis-a-vis the rate we are talking
24 about for the shortest possible mileage, the shortest
25 mileage that the shipper could otherwise receive by
26 carrying the ---

27 A. Over the junction that produces the
28 lowest rates, that does not necessarily mean the lowest
29 mileage.

30 Q. In order to guarantee to yourself the



1
2 long haul.

3 A. Yes.

4 Q. And the revenue that would result there-
5 from?

6 A. That is right.

7 Q. Now, at page 18101 you say:

8 "Now, also, I must take strong exception to
9 the suggestion that the rates be constructed
10 by using the shortest through rail mileage,
11 regardless of whether the traffic moves via
12 that junction or not."

13 A. Yes, I do.

14 Q. In the case of the Edmonton shipper into
15 the Vancouver market on the Canadian Pacific you see
16 nothing wrong with giving him the Edmonton-Vancouver
17 rate whether or not the traffic moves that way so long
18 as he does have the alternative of going down to
19 Calgary -- your route is Edmonton, Calgary Vancouver,
20 the Canadian National is Edmonton Vancouver and you give
21 the short run mileage.

22 A. No, we know that he already has it by
23 routing Canadian National direct so we are not giving
24 him a thing. All we are doing is applying the same
25 rate as our competitor.

26

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2 Q. So that you are not adverse to granting
3 these rates if there is a competitive situation that
4 compels you to grant them?

5 A. We are not adverse to meeting competition,
6 but we do not have to do it. We have a choice. If
7 there is a rate from Edmonton to Vancouver that I do
8 not think I can make any money on, I do not apply it.

9 Q. So, if a shipper happens to be on both
10 railways, you are not adverse to giving him the short
11 line mileage? If he happens to be on one railway you
12 are adverse in principle to giving him the short line
13 mileage?

14 A. Shipping from a point on one railway to
15 another?

16 Q. Yes.

17 A. No, we will give the shipper the benefit
18 of the short line mileage via the junction which the
19 traffic can be moved physically, but your proposal goes
20 much further than that.

21 Q. All right.

22 A. We make interline rates all over western
23 Canada, and that is the basis on which we construct
24 them.

25 Q. What is the basis?

26 A. The basis we construct them on is by
27 figuring the distance via the junction that produces
28 the shortest mileage providing the traffic can be
29 handled that way -- physically interchanged. In other
30 words, where one railway can turn the car over to another.



1
2 We do that all the time, but your proposal goes much
3 further than that.

4 Q. We will come back to that later, but
5 at the moment I want to complete our discussion on
6 construction of trick mileages, and I would like to
7 have your comments on the rates that are created or
8 established -- Montreal to Winnipeg: is this based on
9 any constructive or trick mileage?

10 A. Which rates are you talking about?

11 Q. Montreal rates based on the Toronto
12 mileage.

13 A. You are talking about the class rates,
14 then?

15 Q. Well, I am talking about the rates from
16 A and B group.

17 A. Well, you have to distinguish different
18 rates.

19 Q. Why?

20 A. They are not always made up the same
21 way, but you are talking of the class rates, and that
22 is the fact.

23 Q. Is that constructive mileage?

24 A. It certainly does give certain shippers
25 less than their actual distance, and, as I say, I
26 do not approve that. That was not my idea before the
27 Board under the equalization case. I advocated something
28 quite different.

29 Q. Very good, but I was wondering before
30 this Commission whether the CPR had made any application,



1
2 or is intending to make any application, that would
3 correct that, or, at least, if you do not want to
4 correct that situation, give equity to the western
5 Canada shipper.

6 A. I made my submission to the Board on
7 the equalization case on behalf of the CPR.

8 Q. And in that situation not only is the
9 Montreal mileage from the CPR based on the Toronto-
10 Winnipeg mileage, but it is based on the CNR mileage to
11 Winnipeg and not the CPR?

12 A. If the CNR mileage is shorter, and that
13 is no different from the Edmonton-Vancouver thing.

14 Q. Then, the rates to Vancouver from
15 Winnipeg, are they based on the Vancouver mileage or
16 the New Westminster mileage?

17 A. The New Westminster mileage, again because
18 there are two or three points in that group, and as a
19 matter of fact the New Westminster mileage is shorter.

20 Q. Yes, it is shorter?

21 A. Yes.

22 Q. That is a little tricky too, is it not?

23 A. I do not think so. That is a proper
24 group.

25 Q. Would you be adverse to constructing
26 rates to Winnipeg based on the Transcona mileage on the
27 CNR mileage Toronto to Transcona?

28 A. I do not know whether that should be
29 done or not. I do not know of any reason why it would
30 be. I do not know whether traffic moves through



1
2 Transcona before it gets to Winnipeg, does it, from
3 eastern Canada?

4 Q. From eastern Canada.

5 A. It may.

6 Q. But you would not be adverse to it
7 whether you introduced a principle of establishing rates
8 to Winnipeg based on the CNR from Toronto to Transcona?

9 A. I think it would be up to the Board to
10 decide what group Winnipeg should be in and what mileage
11 should be used.

12 Q. I am sorry, I do not recall: did the
13 Board direct you to use New Westminster?

14 A. I cannot recall specifically whether
15 they did or not at this moment. I rather think they
16 did. Of course, as you understand, Mr. Mauro, the
17 rates to Winnipeg do apply to many points in the
18 Winnipeg terminal area, do they not?

19 Q. Oh yes, I understand they do.

20 A. So, the mileage is different in some
21 to others.

22 Q. I understand from my adviser that if
23 the Transcona mileage is shorter than Winnipeg they
24 pay a higher rate than the Winnipeg mileage.

25 A. That may well be, but I would imagine
26 there are other points on the Winnipeg terminal where
27 their mileage may be greater than Winnipeg, so one
28 offsets the other and that is what I call a proper
29 group, and, as you know, I have no objections to
30 grouping.



1
2 Q. No. It would be hard to convince me
3 that the New Westminster mileage, sitting where it is
4 at the eastern end of that possible group, would form
5 an averaging?

6 A. Well, it does pretty well. Actually,
7 the Canadian National go through New Westminster to
8 get into Vancouver.

9 Q. What about the rates Vancouver Island
10 to points in Canada: is that constructive?

11 A. That was on the basis of a Board's
12 decision that we should not count water mileage the
13 same as the rail mileage.

14 Q. So, you have two for one?

15 A. Two for one, that is right.

16 Q. And that is not tricky?

17 A. No, I do not consider it trick mileage.
18 It is what the Board used in deciding what was a
19 proper range to apply for water distance versus rail.

20 Q. Those are not rates that move at less
21 than actual mileage -- the rates I have just suggested
22 to you from the A and B group from the mileage on CPR?
23 Based on CNR mileage, the Vancouver-New Westminster
24 group, the main line points to Vancouver Island --
25 those are not rates that are being charged less than
26 the actual mileage?

27 A. Some cases they are charged less, and
28 some cases not. That is one of the things that comes
29 into grouping.

30 Q. Can you seriously suggest that any rate



1
2 from the A and B group east of Toronto is not being
3 charged less than the actual mileage?

4 A. That is right, it is, and I do not
5 think it is right, and I have opposed it.

6 Q. And everytime a rate is constructed to
7 Vancouver it is being charged less than the actual
8 mileage because he is paying the New Westminster
9 mileage?

10 A. Not necessarily always. It varies. You
11 are talking about class rates. That is not all the
12 rates we have.

13 Q. Let us confine ourselves: they are
14 the bible -- they are the ultimate in class rates.
15 Everytime the rate is constructed for class rates to
16 Vancouver it is a rate which reflects less than the
17 actual mileage because it is based on the New Westminster
18 mileage?

19 A. It is based on less than the actual
20 Vancouver down-town mileage but, of course, that
21 applies to several points in the Vancouver area
22 including New Westminster.

23 Q. Every time a rate is constructed to
24 Vancouver Island, it is something other than the
25 actual mileage?

26 A. That is because the Board has ruled
27 it must be, and is a water haul and not a rail movement.

28 Q. Well, we are now trying to establish
29 some principles to guide this Commission, and you have
30 told us at page 18102:



1
2 "So, there really is not a constructive
3 mileage in the sense that all of the traffic is
4 moving at rates for less than the actual
5 mileage."

6 I suggest to you there is plenty of traffic
7 moving over CPR lines in Canada at rates which reflect
8 less than actual mileage?

9 A. Well, of course, that is quite true,
10 when you are moving between competitive points where
11 the competing line has a shorter distance. It is also
12 true when you have group rates, and I have already said
13 that. And as to the A and B group, that is something
14 that was put in by the Board which I do not agree with.

15 COMMISSIONER ANSCOMB: Could I ask this, Mr.
16 Mauro, and I am struggling desperately to follow you
17 two experts. Do I understand these rates less than the
18 mileage are brought about simply because of competition
19 between two railways?

20 MR. MAURO: No. That is the interesting
21 part, Commissioner Anscomb, of this operation. As Mr.
22 Edsforth has mentioned, some are brought about by order
23 of the Board.

24 COMMISSIONER ANSCOMB: Well, let us leave the
25 Board out of it. If we could throw this word "trick"
26 out, am I right in saying that simply because -- and
27 take Edmonton, Calgary and Vancouver, which obviously
28 is longer one way than the other -- is that brought
29 about simply because the CNR have a shorter route and
30 they copy it?



1
2 MR. MAURO: They take their routing. We will
3 utilize that in conjunction with our submission as to
4 what we are suggesting may be an equitable application
5 of this competitive situation.

6 THE CHAIRMAN: And there is competition
7 between cities in the east.

8 MR. MAURO: There is competition between
9 cities anywhere in Canada, Mr. Chairman.

10 THE CHAIRMAN: To get into the groups.

11 MR. MAURO: Well, we will have something to
12 say about grouping, Mr. Chairman. We are suggesting
13 as far as one of the major things you are looking at is
14 equity, that something should be considered on this
15 matter vis-a-vis eastern Canada and western Canada.

16 THE WITNESS: I come back again to these
17 group mileages: If a group is properly constructed
18 and the rates are properly based, certainly some
19 shippers will pay more than their mileage and some less,
20 but it is on a grouping principle, and I think Manitoba
21 advocates that as much as we do.

22 MR. MAURO: Q. There is no grouping in the
23 A and B group?

24 A. As I said before, I do not think it is
25 properly constructed, but it is not my fault.

26 Q. But it is there?

27 A. It may be there, and still it does not
28 destroy my principle.

29 Q. I certainly am not trying to destroy
30 any of your principles. I am trying to develop what



1
2 exists in Canada rather than theoretical suggestions
3 that this is a great evil, and yet we find tremendous
4 amounts of traffic moving under so-called trick or
5 constructive mileages. Is there, in fact, a difference
6 between eastern Canada and western Canada in the matter
7 of these interline rates? Are the east-bound shippers
8 treated differently from the west-bound shippers?

9 A. I do not think any differently in that
10 wherever there is traffic to be moved we will put in
11 interline rates, and that is whether it is east or
12 west. If there is to be a movement, we will put in
13 interline rates.

14 Q. There was some difference of opinion as
15 to the historical background concerning CFA 3. The
16 province of Manitoba, as you will recall, stated that
17 the railways attempted in 1955, when the class rate
18 equalization order was issued, to remove many of the
19 joint through rates in eastern Canada that you had
20 inherited from earlier days, and that the shipper
21 reaction was instrumental in persuading the railways
22 to retain the joint class rates but revised to the
23 new equalized basis, and you told my learned friend,
24 counsel for the CPR -- and I am reading from page 18108,
25 right at the foot of the page:

26 "Actually, my record indicates this, that
27 when the Board issued their Order 80410 of
28 December 12, 1952, which was their
29 preliminary order in the equalization case,
30 in which they prescribed a scale of class



1
2 rates, they required the railways to publish
3 through class rates on the new scale jointly
4 between two or more railways, to the extent
5 that the then existing single line basis of
6 rates applied jointly over two or more
7 railways.

8 Now, the equalized rates did not go
9 into effect in 1952. There were a lot of
10 hearings all across the country, and many
11 scales submitted to the Board, but finally
12 the Board's scale was approved and the
13 equalized rate came into effect on March 1,
14 1955."

15 A. Yes.

16 Q. You go on to state that, really, CFA3
17 was not a new tariff; they were not new rates, but
18 they were simply a republication of rates that had
19 previously appeared in railway tariffs and they were
20 now put into a Canadian Freight Association issue.

21 A. Yes, they were originally published
22 in the individual railway's class tariff, and then
23 for convenience they were put into the Canadian
24 Freight issue later on.

25 Q. There is no similar tariff for western
26 Canada?

27 A. No, I do not know, Mr. Mauro, of it,
28 but we do have some inter-line class rates in the
29 west in our tariff W108.

30 Q. But there is no general tariff covering



1
2 joint through rates?

3 A. Joint through class rates, you mean?

4 Q. Comparable to CFA 3?

5 A. No, there is not one like that.

6 Q. I wanted to perhaps clarify this matter
7 of whether some of the background of CFA 3 -- you
8 stated it was not a new tariff but a republication of
9 rates previously in rail tariffs. I notice that the
10 Board Order which you suggest allowed the CFA 3 was
11 effective on March the 1st, 1955?

12 A. Yes, the Board ordered the rates to be
13 put into effect on that date.

14 Q. CFA 3, as I read it, is 1957?

15 A. Yes, that is right.

16 Q. It is two years later?

17 A. It was two years later.

18 Q. Before the tariff was filed?

19 A. Yes, but the rates actually had been
20 published on March the 1st, 1955, and then they were
21 later transferred to this CFA 3. That was all.

22 Q. You are familiar with tariff circular
23 1-A which is the regulations governing the construction,
24 filing and posting of freight tariffs by railway
25 companies?

26 A. Yes, that is the Board re-issue. I
27 would not say I am altogether familiar with it, but I
28 know about it.

29 Q. On page 19, rule 20, called "Cancellation
30 of tariffs", subsection 4, "Transfer from one tariff to



1
2 another", I find this:

3 "When tariff matter is transferred from
4 one tariff to another, the transfer shall be
5 accomplished by specific cancellation, to be
6 made by amendment 2, or re-issue of, the
7 tariff in which it is in force. Such
8 supplements shall contain reference by
9 CTC (F) number to the tariff in which matter
10 will thereafter be found. The tariff
11 containing the matters so transferred shall
12 show a corresponding reference to the tariff
13 in which it was formally published. Such
14 references need only be shown on the initial
15 transfer of tariff matter."

16 A. Yes.

17 Q. This may not be the initial one, and
18 it may be shown there, but I have here Canadian Freight
19 Association, CTC No. 1573, Freight Tariff No. 3,
20 Competitive and Joint Freight Tariff, with the heading,
21 "New rates", applying between stations in eastern
22 Canada on railways as indicated on page 4 -- Boundary,
23 Diamond, Levis and West and North thereof, issued
24 February 27th, 1957, effective March the fourth, 1957?

25 A. Yes.

26 Q. Is there any reference on what I am
27 handing to you as to that it is a republication or a
28 transfer of tariffs?

29 A. Well, I have only got the title page
30 and I cannot say. You would have to look inside to



1
2 see whether there was or not. Sometimes, of course,
3 the Board will give you permission to depart from
4 their tariff rules. There may have been here -- I do
5 not know.

6 Q. You do not know whether they gave you
7 any permission?

8 A. I could not say, no.

9 Q. But if it was a transfer from other
10 tariffs instead of being new rates, then that does
11 appear on the top -- "New Rates"?

12 A. That is right.

13 Q. That might mean something -- it might
14 tend to confuse somebody?

15 A. Yes; I think I said that in my evidence.

16 Q. Because this was asked of you by Mr.
17 Sinclair at page 18110:

18 "And did this confuse people?

19 "A. Well, it may have done. I do not know."

20 I thought on this matter of confusion in the
21 background of CFA 3 I would refer you also to a circular
22 put out by the Canadian Industrial Traffic League, and
23 one of February the 8th, 1957, issue No. 3506:

24 "The Canadian Freight Association is now
25 preparing a new class rate tariff to be
26 known as CFA Tariff No. 3, which will be
27 printed within three or four weeks. The
28 new tariff will be applicable between various
29 stations in the territory west of Boundary,
30 Diamond and Levis, Quebec, and east of Windsor,



1
2 Sarnia, Sault Ste Marie, Port Arthur and
3 Armstrong, Ontario.

4 Class rates now published in CPR tariff
5 E2210-A, CTC No. E5232 to the Wabash railway
6 will be cancelled by inclusion of said rates
7 in the new tariff. No other rates now
8 published by the railways in class tariffs
9 that became effective March 1, 1955, will be
10 transferred to the tariff at this time."

11 A. Transferred to this tariff?

12 Q. "No other rates now published by the
13 railways in class tariffs that became effective March
14 1, 1955, will be transferred to the tariff at this
15 time."

16 It is a matter of confusion, as I say.
17 CITL issue No. 3526, dated March the 22nd, 1957:

18 "Rate basis used in construction CFA 3
19 definitely established. The Chairman was
20 asked during the 41st annual general meeting
21 to develop information concerning the rate
22 basis issued in the construction of a new
23 tariff to be published by the CFA.

24 The Chairman has been informed that
25 CFA 3, competitive and joint freight tariff
26 of class rates applying between stations
27 in eastern Canada, has been based on the
28 single line equalized class rates scale
29 used on joint line hauls."

30 A. Yes, that is in accordance with the



1
2 Board's directive, as I pointed out, in Order 80410.

3 Q. I just have one more quote from this.
4 Issue 3532, April 12, 1957:

5 "Railway rates and tariffs: The Chairman
6 reported that the publication of CFA tariff
7 No. 3 has brought about some unusual
8 situations, notably that in some instances
9 class rates between two non-competitive points
10 were lower than the class rates between a
11 competitive point adjacent to one of the non-
12 competitive points and the other non-competitive
13 points. The Chairman was instructed by the
14 meeting to write the Canadian Freight
15 Association pointing out these irregularities."
16 Were there irregularities?

17 A. I do not know of them.

18 Q. You would not think so if it was just a
19 republication?

20 A. No. To the best of my knowledge, that
21 is what it was, Mr. Mauro.

22 --- A short recess.
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THE CHAIRMAN: Order, please.

MR. MAURO: Q. Mr. Edsforth, regarding this matter of official interchanges between eastern and western Canada -- or, within eastern Canada and within western Canada -- I wonder if you could tell the Board how many official interchanges there are in western Canada?

A. I think forty-two is the number you put on the record, and I have no quarrel with that.

Q. Could you tell us how many official interchanges there are in eastern Canada?

A. I could not, offhand; but I can very easily develop that information.

Q. I will give you a figure, and you can check it. One hundred and ten in eastern Canada, between Canadian Pacific and the Canadian National Railways and I understand there are in Montreal alone six official interchanges, and in Toronto alone five official interchanges. A total of 110?

A. I will accept your figures subject to check, Mr. Mauro.

Q. I was wondering whether these official interchanges in eastern Canada have affected the revenues of the Canadian Pacific Railway?

A. In what way, Mr. Mauro?

Q. I do not know, except that at page 18112, Mr. Edsforth, in discussing this matter with counsel:

"Q. And would, in your view, such a principle of constructive junction points at all



1
2 common points served by all railways in
3 Canada have any effect on railway revenues?

4 "A. It certainly would, and it would substantially
5 reduce, it would be bound to, it could have
6 no other effect."

7 A. Yes.

8 Q. And I was just wondering, since you have
9 had 110 official interchanges in eastern Canada compared
10 to 42 in the whole of western Canada, whether your
11 experience in eastern Canada has been that these official
12 interchanges do affect your revenues?

13 A. Well, all I was saying, and I do not think
14 we are talking about the same thing, with all respect --
15 what I was saying here is that if you tried to figure
16 through rates based on mileage via a junction, where
17 the traffic could not be interchanged, then obviously
18 it would be bound to affect your revenues.

19 Q. Then, with respect to you, Mr. Edsforth,
20 what you were discussing, as I recall, here was this
21 matter of official interchanges at common junction points,
22 and the suggestion of the province of Manitoba, as I
23 recall it -- and we can look it up -- One of the recom-
24 mendations of the province of Manitoba under inequities
25 was to the effect that this Commission should recommend
26 that in western Canada more official interchanges be
27 created, not at every junction point, but more official
28 interchanges.

29 A. I did understand this, that it was not
30 recommended that at all the points where two lines of



1
2 railway came together that there should be an inter-
3 change. You did not suggest that. But you did
4 suggest that whether there was an interchange or not,
5 the mileages ought to be constructed that way. What
6 I was saying was that if you constructed rates for
7 mileages over which the traffic could not possibly
8 move because of no physical interchange, obviously
9 it is going to increase the revenue.

10 Q. So that we will have it clarified for
11 this Commission, you are not objecting to any recom-
12 mendation or submission of the province of Manitoba
13 that there should be a greater number of official inter-
14 changes in western Canada?

15 A. As to the number of official interchanges
16 in Canada, that is something that is between the
17 shippers and the railways. If there is traffic
18 volume that warrants interchange, then the shippers
19 or the communities, or whatever it is, can come to
20 the railways. If they do not agree, then they can
21 go to the Board. I do not say you should say there
22 should be X number of interchanges. I do not think
23 that would make any sense.

24 Q. Could you tell the Commission how many
25 official interchanges were put into western Canada in
26 the last ten years -- say, since the Turgeon Royal
27 Commission?

28 A. I could not tell you offhand, Mr. Mauro,
29 but I could find that out.

30 Q. Do you think it would be over six in the



1
2 last ten years?

3 A. I would not be prepared to hazard a guess.
4 They were put in if they were needed, in the judgment,
5 first of all, of the railways who naturally have to put
6 them in and then, again, in the judgment of the Board if
7 the railways and shipper cannot agree.

8 Q. We can agree on one other thing, so that
9 once we get this information we can discuss it in argu-
10 ment -- as far as your revenue position is concerned,
11 you have found no adverse effect to the 110 official
12 interchanges in eastern Canada; your revenues have not,
13 to your knowledge, been affected by this large number
14 of interchanges in eastern Canada?

15 A. I do not quite see how they would be
16 adversely affected. Those interchanges are there.
17 They are used sometimes for putting in through rates,
18 and sometimes not. But whether they would adversely
19 affect the revenues or not -- that is another question
20 altogether.

21 Q. At pages 18115 and 18116, Mr. Edsforth,
22 you were discussing this matter of the constructive
23 rates over a common junction point, or the shortest
24 mileage to a point. You brought out the example, the
25 illustration of Vancouver to Heatburg?

26 A. Yes.

27 Q. And the mileage -- reading at page 18115:

28 "A. Well, the mileage from Vancouver to Heatburg
29 is 874.4 miles but the basis on which the
30 class rate is made is 863 because that is a



1
2 group mileage using New Westminster
3 but under their proposal the rate would be
4 constructed ---

5 "Mr. Sinclair: Q. Under the Manitoba proposal?

6 "Mr. Edsforth: A. Yes, would be based, the
7 mileage would be based on the Canadian
8 Pacific distance from Vancouver to Calgary
9 of 641.5 miles to which would be added the
10 Canadian National distance of Calgary to
11 Heatburg of 119.3 miles which would produce
12 a total mileage of 760.8 . It would be
13 on that basis, according to the Manitoba
14 proposal that the class rate or whatever
15 rate it was would be constructed?"

16 A. Yes.

17 Q. And then at the foot of the page, in
18 answer to a question:

19 "Mr. Edsforth: Well, I might say very
20 sincerely that I am very much opposed to
21 such a method of constructing rates be-
22 cause either one of two results would follow,
23 either line serving the local point would
24 be deprived of this long haul, in other words,
25 it would be short hauled, or that line would
26 have to haul traffic for a considerable
27 additional distance, in this case over 100
28 miles for a lower rate. In other words,
29 it would substantially reduce their revenue."

30 A. Yes.



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Q. Now, the Canadian National bases its rate from Vancouver to Calgary on the route used by the Canadian Pacific Railway?

A. That is so.

Q. The C.P. Vancouver-Calgary mileage is 642 miles?

A. Yes, 642.

Q. And the Canadian National mileage is 994?

A. I have not got that here, but I think that is right.

Q. You will agree that by so doing the C.N.R. does not short haul itself; in fact, by giving the C.P. mileage the C.N. gets the traffic?

A. It does not short haul itself; obviously, it gets the traffic. That is the only way it could get it.

Q. I am just trying to deal with the two matters -- whether (1) it is short hauled; and (2) it reduces their revenue. So, the C.N.R. in setting its rates to Calgary on the basis of 642 Canadian Pacific miles versus the actual 994 does not short haul itself?

A. Yes, that is right, it does not.

Q. You will also agree that by so doing it does not affect its revenue. On the contrary, it guarantees to itself the revenue?

A. It gets whatever revenue is available from handling that traffic.



1
2 Q. If it did not give that mileage, it
3 would not get any at all?

4 A. I agree, yes.

5 Q. The C.N.R. takes this traffic from
6 Vancouver to Edmonton and Edmonton to Calgary while
7 giving the shorter 350-mile run, in order that it will
8 not short haul itself and in order that it receives
9 or maximizes its revenue?

10 A. That is right.

11 Q. If the rate from Vancouver to Heatburg
12 were based on the short line mileage via Calgary, there
13 is still no reason why the C.N.R. should short haul
14 itself since Heatburg is intermediate to Calgary on
15 the Canadian National?

16 A. That is right. It does not have to
17 short haul itself, but it does under your proposal have
18 to apply a lower rate that is attributable to the
19 mileage that moves the traffic.

20 Q. The shipper in Heatburg does not require
21 any more railway service, Mr. Edsforth, than that
22 represented by the mileage from Vancouver to Calgary,
23 plus the mileage from Calgary to Heatburg. That is
24 all the transportation service he requires. He could
25 get his commodities by the Canadian National Railways,
26 taking it the way it is now, taking the material to
27 Calgary via Edmonton; the present method of the
28 Canadian National is via Edmonton and from Edmonton to
29 Calgary. The Heatburg shipper never requires any
30 additional transportation service?



1
2 A. Additional transportation service? From
3 whom, may I ask?

4 Q. From -- take the Canadian National,
5 since he is intermediate, to Calgary on Canadian
6 National?

7 A. What you say is he does not require any
8 more transportation service to Heatburg than the fellow
9 going to Calgary?

10 Q. Yes.

11 A. That is so. That, of course, is so.
12 Quite right.

13 Q. If the Canadian National Railways elects
14 to carry traffic from Vancouver to Heatburg via Edmonton
15 for 874 miles instead of sharing it with the Canadian
16 Pacific Railway on the 761-mile haul via Calgary --
17 which is the C.P.R. mileage we have worked out --

18 A. That is right.

19 Q. -- this is a matter of railway choice.
20 It does not in any way affect the right of the shipper
21 to pay for the actual transportation service required?

22 A. Well, it is a matter of railway choice,
23 Mr. Mauro, whether they short haul themselves by letting
24 the C.P.R. handle it all the way to Calgary and thereby
25 reduce their revenue substantially, or charge a
26 lower mileage under your proposal, and also reduce
27 their revenue.

28 Q. They are doing it now, Mr. Edsforth,
29 in all their rates to Calgary because they are not
30 short hauling themselves; they are taking it via



1
2 Edmonton?

3 A. Exactly, and that is where they have a
4 choice. They are not compelled to do that, but your
5 proposal would compel them.

6 Q. That is exactly my point, Mr. Edsforth.
7 They are not compelled to do it, but if they so choose.
8 The railway should absorb any of these additional
9 factors, not the shipper. It is the railway's choice
10 and convenience to ship it via Edmonton and not short
11 haul themselves?

12 A. Well, Mr. Mauro, I do not think that is
13 so at all, because, as I say, they do not have to apply
14 Canadian Pacific mileage to Calgary if they do not want
15 to, and thereby the shipper is in no way affected, be-
16 cause he gets it anyway. That rate-making distance is
17 the short line distance.

18 Q. We started off this discussion and there
19 was no difference of opinion between you and me, that now
20 in actual fact the CNR quotes above to Calgary --
21 the C.P.R. mileage is 350 miles less?

22 A. That is right.

23 Q. So, here is a shipper sitting inter-
24 mediate, Calgary-Edmonton, and exactly on the way the
25 C.N.R. runs. Why should he not get the benefit of the
26 short line mileage?

27 A. Because, Mr. Mauro, why should he?
28 There is no competitive necessity whatsoever. I think
29 it is a generally accepted proposition that every line
30 is entitled to its longest possible haul.



1
2 Q. Now, I thought we covered this, that
3 the Canadian National Railway is in no way short
4 hauling itself by giving the Calgary shipper 350 miles
5 via C.N.R.?

6 A. They are not short hauling themselves,
7 of course they are not. But on the other hand to do
8 what you suggest, they would either have to short haul
9 themselves into Heatburg or they would have to apply
10 a rate that is lower than the mileage which they are
11 handling.

12 Q. According to your logic, Mr. Edsforth,
13 if they take it to Calgary on a mileage scale of
14 640 miles, as opposed to 994, they do not short haul
15 themselves. But, if they take it to Heatburg and charge
16 him a mileage scale of 760 miles, as opposed to 994,
17 they would short haul themselves?

18 A. No, no. That is not the point at all.

19 Q. Isn't that the mileage to Heatburg?

20 A. That is; but they are not short
21 hauling themselves if they haul it all the way through.
22 Of course, they are not. But what they are doing is
23 charging a lesser rate than is applicable to the
24 mileage over which the traffic moves, and that is what
25 I say is wrong.

26 Q. What are they doing with their present
27 scheme into Calgary?

28 A. They are not charging any lower rate
29 than is applicable.

30 Q. Why should the Heatburg person pay for



1
2 more than the mileage that is necessary to move his
3 commodity?

4 A. The rate making distance is not made
5 that way at all, and should not be. And, furthermore,
6 as I pointed out later on, on that basis the man from
7 Vancouver to Heatburg would be getting a lower
8 rate than some other shipper in another part of the
9 country who had not had that opportunity.

10 Q. I thought we would discuss that right
11 now, as a matter of fact, Mr. Edsforth. This is the
12 Pine Falls shipper?

13 A. That is right.

14 Q. And you have referred to this situation,
15 and you suggest the result would be inequitable in the
16 viewpoint of the Pine Falls shipper who does not have
17 this opportunity; who is only on one railway?

18 A. That is right.

19 Q. I suggest to you that the Manitoba pro-
20 posal, rather than creating an inequity on the Pine
21 Falls shipper, would remove a present inequity against
22 the Heatburg receiver. In other words, what I am
23 suggesting is that the Heatburg receiver requires only
24 760 miles of rail service. He is presently being
25 charged with 874 miles of rail, or 114 unnecessary
26 miles. In the case of the Pine Falls shipper, he
27 pays only for the minimum number of miles required
28 to move his commodity from Edmonton. The situation is
29 in no way, with respect, comparable?

30 A. I do not agree with that at all because



1
2 the actual movement of the traffic Vancouver to
3 Heatburg and from Pine Falls to Edmonton over the
4 lines of the Canadian National is approximately the
5 same. And so the rates should be the same. Now,
6 the mere fact that it could be worked out some
7 route via Calgary to give Heatburg a lower basis
8 does not in my mind make it ---

9 Q. I maintain you do not have to work out
10 any route. The present routing is in existence and
11 is being utilized, and I suggest you are denying nothing
12 in giving -- in adding on this additional mileage that
13 is the result of the need of the shipper in Heatburg,
14 or are you denying anything to the Pine Falls shipper,
15 because he is being charged exactly his minimum mileage
16 to Edmonton?

17 A. The man is being charged for the distance
18 over which his traffic moves.

19 Q. That is, the Pine Falls man?

20 A. Yes, the Pine Falls man.

21 Q. And he could not have it any other way,
22 because there is no other route?

23 A. That is my point.

24 Q. That is not the case in Heatburg?

25 A. Yes, there is only one way that traffic
26 can move Canadian National, and that is via Edmonton
27 or whatever junction they used.

28 Q. And even though it moved on to Calgary
29 at a 650 mile scale, it is justified, in your considera-
30 tion, and they should charge the Heatburg shipper who



1
2 is intermediate to Calgary the 894 miles?

3 A. Well, Mr. Mauro, yes, that is, so, because
4 I feel this very strongly, as I say in my evidence, that
5 if it is from a point of one railway on its own line
6 then the rates should be made on the basis of the mileage
7 over which the traffic moves.

8 Q. I thought we would discuss this matter of
9 per car rates and incentive rates, and you discussed
10 this at page 18120 and following.

11 On page 18120, regarding incentive rates and
12 the Manitoba submission on them, you say:

13 "A. My views are these, that certainly I have
14 no quarrel with Manitoba about incentive
15 rates, in fact, I am all for them."

16 A. That is right.

17 Q. And you go on to say they are used
18 extensively.

19 Has there been any change in the thinking of
20 railways over the past few years concerning incentive
21 rates?

22 A. Well, I do not know, Mr. Mauro. I think
23 this way, that probably we are working more on incentive
24 rates than we used to years ago. Yes, I agree with
25 that.

26 Q. There used to be, as a matter of fact,
27 I suggest, some opposition in the experience of traffic
28 men on the railways?

29 A. Well, I do not know, Mr. Mauro. We
30 have always had a certain number of them, you know, at



1
2 all times. I think they are more common now than
3 they were, that's all.

4 Q. For the sake of this Commission, you are
5 all for them?

6 A. I certainly am.

7 Q. But you are opposed to per car because
8 you say he who loads heavier receives free transporta-
9 tion?

10 A. Yes, that is right, depending on how
11 your per car rate is figured, of course, Mr. Mauro.

12 Q. As I understand the situation, under a
13 per car rate, assuming the rate to be \$350 per car
14 the shipper who ships 50,000 pounds pays a rate
15 of 70 cents per 100 pounds?

16 A. That is right. That is the mathe-
17 matics of it.

18 Q. The shipper who loads 60,000 pounds pays
19 58 cents per 100 pounds?

20 A. That is right.
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2 Q. Under incentive rates which you support
3 the shipper who ships 50,000 pounds may pay, for the
4 sake of our discussion, 70 cents per 100 pounds and a
5 shipper who ships 60,000 pounds may pay 67 cents per
6 hundred pounds?

7 A. I do not know, it is all in the way we
8 figure it.

9 Q. But that is the principle?

10 A. The principle is you make a lower rate
11 for a higher load.

12 Q. Now, what I want to get clear in my
13 mind, why do you say in the case of the per car rate
14 the shipper is receiving free transportation on
15 10,000 pounds as against the incentive rate price?

16 A. On the per car rate you calculate it on
17 50,000 pounds and that is the charge whether it is
18 50,00 or 100,000. I think there is quite a substantial
19 difference. I do not think we would make our incentive
20 rates on that formula.

21 Q. As between 50,000 and 100,000?

22 A. I do not know what the formula would be.

23 Q. We are not against car rates in principle
24 but merely construction of car rates in the range in
25 which they may be constructed.

26 A. I think there are places where per car
27 rates are all right but I do not think it should be a
28 guiding principle. My own view is that it is far
29 better ---

30 Q. I am sorry, it is far better?



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2 A. It is far better to have it on a unit
3 basis, a 100-pound basis with a graduation in weights.
4 I think that is the more equitable way of dealing with
5 it. I am not objecting in principle to the car rates.
6 There are some cases where they might be used.

7 Q. I have here CPR agreed charge No. 735,
8 Canadian National, Steel Company of Canada Limited at
9 page 2, "agreed charge applicable via Canadian National
10 Railways, \$60 per car"?

11 A. Yes, and we have some per car rates in
12 too. I am not against them in principle but I do not
13 think they should be the guiding principle or rule for
14 constructive rates. I think the unit base, the 100-
15 pound base is really better for all.

16 Q. So there is no misunderstanding between
17 us, Manitoba in no way suggests them as a guiding prin-
18 ciple.

19 Q. They might be investigated?

20 A. Oh, well, I agree with that also. All
21 I say is you have got to make sure you are doing the
22 thing equitably and fairly to both parties.

23 Q. Now, the last matter I want to discuss
24 with you is the matter of the Manitoba formula regarding
25 alternative to horizontal increases?

26 A. Yes.

27 Q. At page 18082, lines 5 to 24, counsel
28 asked you:

29 "Q. Well, Mr. Edsforth, ten per cent plus
30 $3\frac{1}{2}$ cents and ten per cent plus $4\frac{1}{2}$ cents,



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2 that is not too meaningful, is it?

3 "A. Well, it is one cent per hundred pounds
4 difference and that is quite meaningful
5 in the lower rates. If you have a rate
6 of 5 cents per 100 pounds an additional
7 increase of one cent is a 20 per cent in-
8 crease."

9 And further on:

10 "The Manitoba formula would produce an
11 increase of 1/2 cent from the 10 per cent
12 factor and a further 3 1/2 cents from the
13 full amount or an increase overall of
14 4 cents per 100 pounds or 80 per cent."

15 And then you conclude:

16 "It does make a difference."

17 A. Yes.

18 Q. Now, in support of this statement you
19 filed Exhibit 164 which illustrates the Manitoba formula
20 under your own revenue requirements, namely 10 per cent
21 and 4 1/2 per cent?

22 A. Yes -- 10 per cent and 4 1/2 cents.

23 Q. Yes, I am sorry. Now, you will agree
24 in comparing the effects of the two proposals you
25 have to take into consideration a modification?

26 A. Yes, I think I did say so, too.

27 Q. Have you Exhibit 164 before you?

28 A. Yes, I have.

29 Q. You will note that under both the Manitoba
30 classification and under the Canadian Pacific classification



1
2 a rate of 5 cents per hundred would increase to a
3 maximum of 2 cents?

4 A. That is right, I pointed that out later on,
5 I think.

6 Q. So it would not be correct to state that
7 another difference would result in a rate of 5 cents
8 under the Canadian Pacific consideration or the Manitoba
9 proposal?

10 A. Oh, yes, quite a difference because
11 under your modification the railways forego 2 cents
12 per hundred pounds, a difference between 2 cents
13 and 4 cents whereas with the Canadian Pacific figures
14 it is 3 cents per 100 pounds and that is quite a dif-
15 ference, that is our revenue.

16 Q. We had better get back to Exhibit 164.
17 Under rate prior to increase, 5 cents?

18 A. Yes.

19 Q. Twenty per cent straight horizontal
20 increase in the rate would go up one cent?

21 A. Check.

22 Q. At 10 per cent plus 33.5 with the modifi-
23 cation it would be 2 cents?

24 A. Right.

25 Q. Now, we go further to the Canadian
26 Pacific calculation at 10 per cent plus 4.5 cents?

27 A. Yes.

28 Q. And that modification it goes up 2
29 cents?

30 A. That is right.



1
2 Q. Now, forgetting about foregoing of revenue
3 at this stage ---

4 A. I find that hard to do.

5 Q. All right, we will discuss this revenue
6 factor in a moment and I am sure you won't find it too
7 hard, but with the modification under either the
8 Canadian Pacific recalculation or under the Manitoba
9 formula the 5-cent rate would go up to the maximum of
10 2 cents?

11 A Yes, that is what the shipper would pay.

12 Q. The same in both cases?

13 A. The same in both cases, yes.

14 Q. In fact, there is no difference in the
15 calculation at all that you made or Manitoba made. In
16 those rates from one to thirteen cents we are taking
17 into consideration the modification?

18 A. With the modification, yes, that is right.

19 Q. And on the balance of the scale the
20 Canadian Pacific calculation would result in an increase
21 of one cent more than the Manitoba calculation?

22 A. Yes, that is right.

23 Q. That is the difference in the two cal-
24 culations taking into consideration the modification?

25 A. Yes, a difference of one cent all the
26 way through from there on.

27 Q. Not all the way through, just one to
28 thirteen?

29 A. From there on, I said.
30



1
2 Q. You stated at page 18084 at the foot
3 of the page:

4 "Q. What is your comment on that, the erosion
5 attrition factor?

6 "A. Well, I do not think it is proper to assume
7 the same erosion and attrition under the
8 Manitoba formula as was used in calculating
9 the erosion and attrition from the increase
10 proposed by the railways in 1958. I say this
11 for the reason that the Manitoba formula
12 increases the rates on the lower value shorter
13 haul traffic very substantially in excess of
14 what the increases would be on a straight
15 horizontal percentage increase even without
16 modification."

17 Now, what was no doubt at that time in your mind was that
18 the whole purpose, the rationale of the Manitoba proposal
19 was to shift some of the burden from long haul or high
20 rated traffic to short haul or low rated traffic?

21 A. The whole purpose was to make the increase
22 greater on the short haul traffic and lower value traffic.

23 Q. So your statement tends to agree with
24 Manitoba that there would be a substantial -- there would
25 be a greater increase on short haul as opposed to the long
26 haul?

27 A. Oh, yes, certainly.

28 Q. Now, on this matter of short haul traffic
29 which I think we might discuss for a minute, would you
30 agree that generally speaking traffic moving within the



1
2 eastern region and traffic moving within the western
3 region represents what might be termed relatively
4 short haul movements?

5 A. Well, it depends on the commodity you
6 are talking of. There is a great variation as to
7 what is short haul and what is long haul on the different
8 commodities so it is pretty hard to generalize.

9 Q. I am referring -- just to give us some
10 facts, the Waybill Analysis, the character of traffic
11 1959 at page 5, I notice under "Commodity Rates, Average
12 Haul per Ton, Eastern", that is within eastern 173 miles?

13 A. Just a moment, I am trying to follow
14 you.

15 Q. Page 5.

16 A. Within Eastern?

17 Q. Within Eastern commodity?

18 A. This is Table 1B?

19 Q. Under average haul 173. At page 7.

20 A. 173, that is on the competitive rates
21 under commodity?

22 Q. That is competitive, that is right.
23 Just following on that, the other one is only 143
24 non-competitive so I took the minimum one, 173 and
25 then if you will turn over onto page 7 of the same
26 document, commodity rates within the west?

27 A. Yes.

28 Q. Competitive 206 miles?

29 A. Yes, competitive 206 miles, that is
30 right.



1
2 Q. Which with reservations we may have on
3 the Waybill Analysis, Mr. Edsforth, gives us some
4 touchstone as to the hauls. I would imagine you would
5 agree that hauls averaging 173 miles or 206 miles would
6 be relatively short haul traffic?

7 A. For many commodities but not for all of
8 them by any means. There will be lots of them that that
9 would really be long haul, things like sand and gravel
10 and concentrate.

11 Q. Well, we will discuss sand and gravel in
12 one particular province in a moment, but assuming hauls
13 of 173 and 206 are certainly not long haul, in the
14 general usage of that term, if we look at Exhibit 162 ---

15 A. Yes, I have it.

16 Q. Under the heading of "Traffic at Com-
17 petitive Rates," the traffic within the eastern region
18 of the traffic, within the western region represents
19 86.8 per cent of the total revenue received from
20 competitive rates?

21 A. Let me see.

22 MR. SINCLAIR: I think we can accept the
23 calculation.

24 MR. MAURO: Q. 58.8 and 29.0. We further
25 know the traffic within the eastern region was able to
26 sustain a 12.6 increase and for the western region a
27 12.3 increase?

28 A. That was the yield from the traffic that
29 was covered by that study.

30 Q. Well, you had 17 per cent?



1
2 A. On the competitive, no, that was com-
3 pletely up to ourselves but that is what we put on.

4 Q. It was able to sustain 12 per cent in
5 both cases?

6 A. That is what we were able to realize in
7 the overall picture.

8 Q. Now, the long haul, Maritime to East,
9 which is certainly a long haul, they could only take a
10 7.9 increase?

11 A. That is the way it worked out on the
12 average.

13 Q. And the east and west a 7 per cent in-
14 crease on competitive -- we are confining ourselves to
15 competitive traffic?

16 A. This is Ontario-Quebec to the west, 7
17 per cent.

18 Q. And the west to east could only take
19 .4 per cent, that is your figure, .4 per cent?

20 A. Yes. Well, that is what was obtained
21 so they could only take on ---

22 Q. That is all you could obtain on com-
23 petitive traffic?

24 A. Yes.

25 Q. I suggest to you your Exhibit 162 points
26 out in the field of competitive traffic the intensity
27 of competition is now greater on the long haul than on
28 the short haul traffic?

29 A. No, I do not think that points that up at
30 all, Mr. Mauro. All this shows is what you get out of a



1
2 particular rate increase on the traffic that you handle.
3 Certainly it does not show the traffic that you did not
4 get and that is very important, you know.

5 A. That is right.

6 Q. Can you ever increase your rates on
7 traffic you do not have?

8 A. You could increase your rates on traffic
9 and then lose it.

10 Q. What has it to do with the traffic you
11 do not have?

12 A. The traffic that you lose might even be
13 a measure of the intensity of competition.

14 Q. But so far as your revenues are concerned,
15 I suggest to you, it is rather meaningless to talk
16 about the horizontal increase on traffic you did not get
17 because you did not get them under horizontal increase
18 either?

19 A. For a time we put the increase in and get
20 it for a little time and then lose it.

21 Q. But on the traffic you also lose whether
22 it goes on by horizontal increase when you are talking
23 about increase, I find it difficult to follow the logic
24 of that statement when you are talking about increasing
25 that it is important to think of the traffic you do not
26 have?

27 A. I did not say that at all but it is im-
28 portant if you are looking at rates, it is important to
29 look at competition; you do not look at it just from
30 rate levels.



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2 COMMISSIONER GOBEIL: You do not mean, Mr.
3 Edsforth, that your increase on the long haul traffic
4 was smaller because you lost more traffic on the
5 long haul?

6 A. No, I do not mean that. The revenue
7 result that was illustrated by this exhibit could be
8 from no cost but not from traffic lost because it is
9 traffic that we actually handle.

10 Q. Well, what does that traffic that you do
11 not get -- you said to Mr. Mauro that it does not
12 affect traffic you do not get?

13 THE WITNESS: The point was Mr. Mauro said
14 this illustrated the fact that competition was more
15 keen on the long haul than on the short haul traffic and
16 what I was pointing out was that this statement only
17 shows what happened on the traffic that did move. This
18 does not show the traffic that you did not get or lost
19 because of a rate increase or for some other reason but
20 lost because of competition.

21 MR. MAURO: Q. What increase do you put on
22 the traffic you do not get?

23 A. Mr. Mauro, we probably put 17 per cent
24 on all of it and then lost it.

25 Q. And you do not know what revenue you
26 lost as a result of that, how can it have any effect
27 on revenue on traffic you do not have?

28 A. The impact is simply this, when I say the
29 intensity of competition is greater on the short haul
30 I mean it is that traffic is more vulnerable to motor



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2 truck competition but there is more than that too,
3 because even with your modification you still have heavy
4 increase here and you should get competition from motor
5 carriers, competition from water carriers and that is
6 all in the short haul range. You have competition from
7 alternative sources of supply also or substitute products
8 so this should all go in.

9 Q. Let us look at one; you mentioned in your
10 evidence this matter of the Montreal to Toronto area is
11 one of the most active you know of and that is frequently
12 termed a short haul. I think we should look at this.
13 I assume this is one of the important areas for Canadian
14 Pacific?

15 A. It is one of the important areas.

16 Q. And you are concerned, in what you have
17 just told us, that under the Manitoba formula you would be
18 unable to increase your rates and maintain the traffic
19 as you presently do under the horizontal percentage
20 system?

21 A. That is on the lower rated traffic, the
22 short haul, it works both ways.

23 Q. That is what the Manitoba formula is intended
24 to do, let us be clear on that.

25 Q. At Volume 106 Mr. Roberts was being examined
26 by Mr. Brazier at page 17747. On that page Mr. Brazier
27 put into evidence Tariff E1355-F CTC 5253, dated July 4,
28 1960, on all types of general commodities, Montreal and
29 Toronto?

30 A. Yes.



1
2 Q. And he put on the rates:

3 20,000 pounds 45 cents

4 24,000 pounds 40 cents

5 30,000 pounds 38 cents

6 40,000 pounds 36½ cents.

7 60,000 pounds 33½ cents.

8 A. Yes, I see this in the record.

9 Q. Now, I would like to put on the record
10 the comparison of the results in applying the Manitoba
11 formula and horizontal percentage increases to these
12 rates?

13 A. This is 20 per cent.

14 Q. Yes, the same formula and basis, Mr.
15 Edsforth, and the increase we will be applying taken
16 from Exhibit 153-E but I will give this to you so you
17 can authenticate them.

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MR. SINCLAIR: Under 153E or 164?

THE WITNESS: Which one are you using?

MR. MAURO: Q. It is the same thing.

A. Yes, I see.

Q. 153 is the Manitoba exhibit as to the increases, and they are the same thing up to this rate.

Under 20,000 pounds, presently moving at 45¢ a hundred, the Manitoba formula would mean an increase of 8¢?

A. Yes.

Q. Under a 20% horizontal increase, the increase would be 9¢?

A. Yes.

Q. 24,000, the rate is 40¢?

A. Yes.

Q. Under the Manitoba formula it would increase 8¢?

A. 9 and 8.

Q. Under a 20% horizontal increase it would increase 8¢?

A. 8¢ in both cases, yes.

Q. 30,000 pounds, the rate, 38¢?

A. Yes.

Q. Under the Manitoba formula, 7¢?

A. 7.

Q. Under the horizontal increase, 8¢?

A. Yes.

Q. In other words, a cent less under the Manitoba formula?



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A. Right.

Q. 40,000 pounds, rate $36\frac{1}{2}\phi$; under the Manitoba formula, 7ϕ ; under the horizontal increase, 7ϕ -- identical increase.

60,000 pounds, a rate of $33\frac{1}{2}\phi$; under the Manitoba formula the rate would go up 7ϕ ; under the horizontal percentage increase of 20% it would go up 7ϕ for an identical amount?

A. Yes.

Q. So, you have 20,000 pounds minimum weight, the Manitoba formula would be 1ϕ less than the horizontal increase. For 24,000 pounds it would be identical, and 30,000 pounds the Manitoba formula would give 1ϕ less, and 40,000 and 60,000, identical increases?

A. You are using the modification there, of course?

Q. My modification?

A. Yes.

Q. No, no; that is not the modification. My modification ends at 12ϕ . However, you can check these.

MR. SINCLAIR: Are you doing a disposition of the factor -- anything over .5 you are moving to a cent?

MR. MAURO: We took directly from exhibit 153E which was the allocation of the Manitoba formula to rates.

THE WITNESS: Well, of course, on your 45ϕ



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2 rate, as I have calculated it there, that would be
3 9¢ in each case.

4 Q. 8¢ under the Manitoba formula?

5 A. I am looking at the 45¢ rate.

6 Q. Yes, 20,000 pounds.

7 A. Yes, but under the formula as adjusted
8 for CPR needs it would be 9.

9 Q. Under the CPR calculation the 45¢ rate
10 would be 9 under the Manitoba formula, and 9 under
11 the horizontal percentage increase?

12 A. Yes, and when you come to the 40¢, it
13 is 9¢ under the Manitoba formula and 8 under the 20%
14 increase.

15 Q. According to your figures?

16 A. That is right, and when you come to the
17 30¢ rate it is 8 under the Manitoba formula, and 8¢
18 under the 20%.

19 Q. It is the same?

20 A. Yes. $36\frac{1}{2}$, we do not have. We have got
21 36 and 37 and they are both the same.

22 Q. Both the same?

23 A. Yes, so it would be 8¢ under your
24 formula and 7 under the 20%. And with the $33\frac{1}{2}$, again
25 we have not got a half, but the 33 and the 34 are the
26 same, so it will be 8¢ under the Manitoba formula and
27 7¢ under the 20%?

28 Q. One cent different?

29 A. So, by and large, it is a cent greater
30 increase on these rates under the Manitoba formula.



1
2 Q. So, as far as the Toronto-Montreal is
3 concerned, I suggest to you that the effect of the
4 Manitoba formula as compared to the present horizontal
5 percentage increase is insignificant?

6 A. You mean a cent is insignificant?

7 Q. A cent over that range. It is not a
8 cent in every case?

9 A. Almost every one of them.

10 Q. No, no, it is not, with respect.

11 A. Well, I am sorry; it all depends whose
12 version of the formula you are using.

13 Q. Well, in your case your formula reduces
14 the Manitoba increase in one case and increases the
15 horizontal in another, but I suggest over the range of
16 that rate structure, and minimum, the impact on that
17 very important area of traffic, Montreal-Toronto, it
18 would have a minimum impact vis-a-vis your loss of
19 traffic?

20 A. Well, Mr. Mauro, that, of course, is
21 your opinion, and I do not agree with it. It does make
22 a difference.

23 Q. And I respect your opinion on that.

24 A. Thank you, sir.

25 Q. With your background in this subject.

26 Now, you have referred to the fact that it
27 would be difficult in many cases to apply the increase
28 under the Manitoba formula, and you use as one of your
29 examples a movement of sugar beets?

30 A. Yes, that is right.



1
2 Q. You said it would be more difficult to
3 apply the Manitoba formula to the movement of sugar
4 beets as compared to the horizontal percentage method?

5 A. Yes. What page is that?

6 Q. Page 18095, line 20, and 18096?

7 A. I have it here now.

8 Q. You said it would be almost impossible
9 to apply the rate increase brought about by the
10 Manitoba formula compared to the horizontal percentage
11 increase?

12 A. Yes, I said there were certainly great
13 difficulties for somebody, either the railways or the
14 shippers.

15 Q. How much of the last 17% increase did
16 you apply on the movement of sugar beets in Manitoba?

17 A. I do not think we were able to hold
18 any of it.

19 Q. You do not think under the Manitoba
20 suggestion you will be able to apply our method of
21 increase to traffic you have been unable to apply
22 increases to in the past?

23 A. Well, Mr. Mauro, the only difference is
24 that your increase being greater on the short hauls,
25 the short fall on revenue becomes greater.

26 Q. How can you use as an illustration the
27 sugar beets in Manitoba movement, comparing it with the
28 horizontal percentage method, when you were not able
29 to apply a one percentage point?

30 A. What happens two years ago does not



1
2 necessarily happen again. One must always look to
3 the future.

4 Q. I have one other point on this matter
5 of the competition on short hauls, and you mentioned
6 this morning in discussing Montreal and Toronto that
7 the main competitive factor is haul by truck.

8 A. Or water.

9 Q. But you mentioned particularly the
10 truck?

11 A. Yes; there is water too.

12 Q. And were you aware that on July 3, 1956,
13 the Ontario and Quebec trucks raised their class rates
14 by 10% plus 5¢ a hundredweight?

15 A. This was in 1956? Yes, I think I
16 recall that; they did.

17 Q. The truckers in 1956 utilized this
18 particular method of increasing their rates?

19 A. 10% increase.

20 Q. Plus 5¢ per hundred pounds?

21 A. I do not know whether they put both on.
22 I think one was an alternative. You may be right.

23 Q. Well, I will show you this: the
24 Canadian Industrial Traffic League circular, 3436,
25 July 13, 1956:

26 "On July 3, 1956, Ontario and Quebec truckers
27 raised their class rates by 10% with an
28 additional 5¢ per hundredweight on all
29 shipments up to 5,000 pounds. Also, on July
30 3, 1956, the Canadian Railways increased



1
2 normal class and commodity rates by 7%."

3 A. Yes. That 5¢ per hundred pounds was
4 only on certain traffic. It did not apply to everything
5 they carried; and, this was only their class rates, and
6 there is an awful lot of traffic which does not move at
7 those. But, certainly there is greater attrition in the
8 short haul -- competition is much keener, and I believe
9 your proposal intensifies that very substantially.

10 Q. With due respect I say the facts and
11 figures show that our proposal will not intensify it to
12 any extent above the present horizontal percentage
13 increases.

14 A. Well, I have not seen them.

15 Q. We have discussed Montreal-Toronto this
16 morning?

17 A. I say there is a difference there under
18 your proposal.

19 This much I am sure of, Mr. Mauro, from
20 examining your proposal, that our revenue would not be
21 properly protected by it. I am quite certain of that.
22 I have checked it very carefully and tested it to see.
23 For one thing, the modification which you have put in --
24 that is sort of a built-in attrition right off the bat,
25 because there you modify the effect of your 10% plus
26 $3\frac{1}{2}$, or $4\frac{1}{2}$, whichever you like to make it and that
27 modification is money which you are not going to get.

28 Q. You have changed your mind in the past,
29 Mr. Edsforth, I am sure, when certain matters came to
30 your attention, and you told this Commission you were



1
2 not religiously bound to the present method?

3 A. Oh gracious, I am not wedded to it at
4 all.

5 Q. Not at all.

6 A. But, as I said in my previous evidence,
7 I have examined quite a few plans, and I certainly
8 looked very carefully at Manitoba's and I have not yet
9 found one that I think in the overall picture does as
10 good a job as straight horizontal increases.

11 Q. But both you and I are agreed before
12 this Commission that we are seeking a solution to this
13 problem, because certainly the horizontal percentage
14 method has not met with any general acceptability on
15 the part of shippers in Canada?

16 A. Well, I do not know about that, Mr.
17 Mauro. There certainly have been some people who have
18 objected to it, but there have been a lot who have not,
19 and I do not think there has been any general chorus
20 against it.

21 Q. Have you, in the light of the hearings
22 since 1946, and if you have looked at the testimony
23 and the transcripts of Hugh John Fleming in New
24 Brunswick, Nova Scotia's submission, Newfoundland's
25 submission, Premier Shaw of Prince Edward Island,
26 Premier Roblin of Manitoba, Premier Manning of Alberta,
27 Mr. Bonner of British Columbia -- can you say that there
28 is no general dissatisfaction?

29 A. You said on the part of the shippers.
30 I am talking about the people we deal with in shipping



1
2 freight. Those are the ones involved.

3 Q. You think there were not shippers that
4 came before this Commission in addition to the leaders
5 of the government of the provinces?

6 A. There were some shippers, yes, but
7 there were an awful lot of shippers that have made no
8 protest.

9 Q. Do you think this Commission should pay
10 very close attention to the submissions of leaders of
11 governments of this country?

12 A. I think the Commission will pay attention
13 to whatever is put before them.

14 Q. Thank you, Mr. Edsforth, it is always
15 a pleasure to discuss these matters with you.

16 A. Thank you.

17 THE CHAIRMAN: Gentlemen, we suggested that
18 at the recess we would discuss the situation with regard
19 to tomorrow, and we are not going to sit tomorrow, in
20 honour of Mr. Jefferson.

21 We will meet in the Chateau Laurier on
22 Wednesday and Thursday in the same room as before,
23 and we will back here again on Friday.

24 On Wednesday we will have Mr. Edsforth,
25 and on Thursday the CNR witnesses and Mr. Wesson.

26
27 --- Luncheon adjournment ---
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2 --- On resuming at 2:00 p.m.

3 THE CHAIRMAN: Order, please.

4 Now, gentlemen, before Mr. Frawley starts,
5 the Commission on Saturday morning considered the
6 question of schedule. You all realize the pressure
7 from all sources that we are under, not only in here,
8 but elsewhere, and our necessity for getting through
9 with despatch. Now, we have a ruling and Mr. Cumming
10 will read it. Mr. Cumming?

11 MR. CUMMING: The Commission proposes, today,
12 to outline the schedule for the balance of its public
13 proceedings. In doing so, as the Chairman has said, it
14 finds itself faced with problems of considerable
15 difficulty, arising principally out of the complicated
16 question of the cost evidence relating to the movement
17 of grain under statutory and related rates.

18 In making the ruling about to be announced, the
19 Commission has borne in mind the commitment previously
20 given, that it would examine, with the assistance of its
21 own technical consultants and advisers, as well as with
22 the assistance of the parties appearing before it, the
23 question of assessing the cost studies. It has also
24 considered the dates on which the various precis and
25 memoranda have been filed and available to other parties,
26 and the opportunities that they, that is the other
27 parties, have had to consider and evaluate them. In
28 addition, and of overriding importance, the Commission
29 has had regard to its duty to the government and the
30



1
2 people of Canada, under its terms of reference, to
3 proceed with despatch and to report as soon as possible
4 on the whole problem of transportation, a problem which
5 cannot be divided into separate airtight compartments.

6 With the foregoing considerations in mind,
7 and the interest of being fair and reasonable to all
8 parties, the railways and the provinces and the grain
9 interests alike, the Commission makes the following
10 ruling:-

11 1. The period from November 21st to November
12 25th, 1960 is allotted for the cross-examination
13 of Dr. Borts by counsel for the railways.

14 2. Commencing December 7th the Commission
15 will hear the submissions on behalf of the
16 government of the Province of Quebec and the
17 cross-examination thereon.

18 3. The period from January 4th, 1961 to
19 January 21st, 1961 is allotted for the cross-
20 examination of Mr. Banks and Mr. Banks and
21 Mr. Saunders and for the hearing of any
22 rebuttal evidence the railways wish to call
23 on the question of the cost of handling grain.

24 4. The Commission directs that the arguments
25 and summations of the cases of all parties
26 shall be made in writing, and that they shall
27 be filed with the Commission not later than
28 February 10th, 1961. Twenty-five copies
29 are to be filed with the Commission and it
30 is assumed that copies will be exchanged



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2 between the parties. The Commission bespeaks the
3 cooperation of counsel for all parties concerned
4 in carrying out this ruling. However, it is mindful
5 of its overriding public duty, and with this before it,
6 it is convinced that it has no alternative but to
7 announce and abide by this schedule.

8 MR. FRAWLEY: Well, Mr. Chairman, is it implicit in
9 item 4 that there be no time allotted and that, therefore,
10 there be no oral addressing of the Commission on the
11 question of argument?

12 THE CHAIRMAN: Unless counsel is called in
13 by the Commission.

14 MR. FRAWLEY: Unless counsel is called in?

15 THE CHAIRMAN: Yes.

16 MR. SINCLAIR: Of course, Mr. Chairman, I
17 have spoken to my friend, Mr. McDonald, and I note
18 that the Commission's ruling is directed towards us
19 particularly in regard to cross-examination of
20 technical evidence with regard to the cost study
21 in respect of grain. I do not think, Mr. Chairman,
22 that we have asked for any undue time at any period
23 in regard to giving ourselves reasonable time with
24 which to consider and to assist the Commission in
25 accordance with what we felt was necessary.

26 I also note the Commission has said that
27 it has its own experts. This is, of course, true.
28 They are spending this whole week, as I understand it,
29 considering this cost study. It could be that as
30 a result of that conference many of the problems that



1
2 seemed to present themselves in the light of the
3 evidence filed just this past week will not be
4 problems; that they will be resolved during this
5 conference.

6 THE CHAIRMAN: We hope so.

7 MR. SINCLAIR: But, if they are not, sir,
8 then I can say quite frankly that we cannot be of
9 assistance to the Commission in cross-examining
10 on the date stated. And I have to say this to
11 the Commission that in marked contrast to the time
12 given to my friends is the time set out here -- in
13 marked contrast.

14 And, notwithstanding the fact that I think
15 that the work of this Commission has, of necessity,
16 borne with a considerable impact upon some of us; and,
17 so, until the cost conference is finished, until we
18 see what areas are still open, we cannot speak to
19 this intelligently. And, quite frankly, sir, I must
20 say that I think if there is not a resolution of
21 these problems with the cost conference, then there
22 is nothing we can do but to say that the result of
23 this ruling is equivalent to saying that the
24 Commission has decided that we cannot be of assistance
25 to them in cross-examination.

26 THE CHAIRMAN: Well, you will leave the matter
27 with a prayer for the cost conference.

28 MR. SINCLAIR: Well, of course, sir, I do,
29 because it seems to me that the very nature of the
30 material is such that it lends itself particularly



1
2 to discussion of technical questions in the conference
3 method, but, that having failed, then there is only
4 one way to test it out, and of course with the way
5 the Commission has been operating -- you get certain
6 material in your mind; and then you have to, because
7 the Commission does not proceed for any number of
8 reasons in accordance with their plans, that material
9 leaves your mind. And, particularly, in this cost
10 area, it is technical material that, speaking for
11 myself, I do not use every day. Now, there may be
12 others who do use it every day, and for them it is
13 easy to keep in their mind.

14 All I can say is this, that until we see
15 what resolution is made of the problems in the
16 cost conference that is now proceeding, all I can do
17 is put this caveat on it, and put the interpretation
18 on it that I have put on it.

19 THE CHAIRMAN: We have noted what you say,
20 Mr. Sinclair.

21 MR. SINCLAIR: And I take it, notwithstanding
22 that, that it means if we are not here on the 21st
23 you are holding to these dates, and you are saying
24 to us that we cannot be of assistance to you in
25 cross-examination -- notwithstanding the fact that
26 the people on this side had as much as six months to
27 prepare themselves.

28 THE CHAIRMAN: Well, let us not get into that
29 argument again.

30 MR. SINCLAIR: I want to make it clear, Mr.



1 Chairman, that I am speaking on behalf of the railway.

2 THE CHAIRMAN: We understand that. We will
3 consider it all.

4 MR. McDONALD: There was one thing I should
5 say to you, Mr. Chairman, and that is that I find
6 myself in this position: our cost people are tied
7 up, as you know, in this cost conference in Montreal.
8 I have been talking to them, and until that conference
9 is over they cannot tell me what time they will need
10 to prepare some material for me on which to base
11 cross-examination.

12 That is the position I have. I have not any
13 material on Dr. Borts' cross-examination and I won't
14 have until after the cost conference is over.

15 THE CHAIRMAN: We have noted what you have
16 said.

17 CROSS-EXAMINATION BY MR. FRAWLEY:

18 Q. Mr. Edsforth, would you first look with
19 me at Mr. Harrie s' memorandum "Transportation in the
20 Economy of Alberta", page 38. The reference in the
21 transcript is to volume 97, page 16527, but I think
22 it is just as easy to follow it there.

23 A. What page, Mr. Frawley?

24 Q. Page 38.

25 A. 38.

26 Q. Yes. That is when he advances his
27 proposal?

28 A. Oh, yes, I see.

29 Q. Now, he puts it to the Commission there,
30



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2 Mr. Edsforth, that there should be a maximum set at
3 a range, I put it to you, which runs from full
4 variable plus 40 per cent in the case of the very low
5 competitive rates to as high, perhaps, as many
6 percentage points over variable, perhaps even thirty
7 or forty per cent over variable, looking again at
8 some of the higher competitive rates. Is that a
9 fair way to put it?

10 A. I do not know, Mr. Frawley. It would,
11 of course, depend on the level of the competitive
12 rate in each case, and as to what cost level it was
13 at, I would not know.

14 Q. No. He plainly, on the surface, he
15 simply puts it at 15 per cent over the lowest
16 competitive rate published for the same or similar
17 traffic. That is where he puts his maximum in terms
18 at the bottom of page 38?

19 A. Now, let me see, Mr. Frawley.

20 Q. Yes.

21 "We would propose that the upper limit
22 to permissive charges for the movement of
23 goods in Canada be established at statute
24 at not more than the lowest competitive
25 rate published for the same or similar
26 traffic plus 40 per cent."

27 And that would be the maximum which he would
28 propose.

29 A. Forty per cent over the lowest competitive
30 rate, whatever it was.

1 Q. That is right. All I am saying to you
2 is that some of your competitive rates -- they all are
3 the fully variable cost plus something? "

4 A. That is so.

5 Q. But those "pluses" vary, of course?

6 A. They do.

7 Q. You see, what I am really putting to you
8 is that when you look at the whole of Mr. Harnies'
9 paragraph on page 38, which I want to read for you,
10 you will see that he is concerned with his maximum
11 being related to costs, to variable costs. He says
12 there, Mr. Edsforth:

13 "Many statistical calculations have
14 been made which relate variable costs to
15 total costs. The most recent example is
16 to be found in the cost studies prepared
17 by the railways on the movement of export
18 grain. Without the necessity of getting
19 into a discussion of the merits of this
20 particular study it can be accepted that
21 the study shows constant costs varying
22 from approximately 15 per cent to nearly
23 25 per cent of total costs. Other
24 studies have shown that on an overall
25 basis constant costs may be as high as
26 50 per cent of variable costs."

27 And, then, having said that, then he proceeds
28 with his proposal:

29 "We would propose that the upper limit
30



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2 to permissive charges for the movement
3 of goods in Canada be established by
4 statute of not more than the lowest'
5 competitive rate published for the same
6 or similar traffic plus 40 per cent."

7 I put it to you that, to be perfectly fair,
8 and looking at his proposal in its complete context,
9 that he is relating his maximum to variable costs?

10 A. Well, he is relating it to rates, Mr.
11 Frawley, and whatever costs they may represent.

12 Q. That is true; that is true, but when he
13 is talking about -- having just talked about the
14 relationship of total costs to variable costs, he
15 then proceeds to gear his maximum to the lowest
16 possible competitive rate; to the lowest competitive
17 rate.

18 A. Yes, although I think he did later on
19 change that somewhat and take in other kinds of
20 rates as well.

21 Q. That is true -- whatever the lowest
22 rate might be. But, to the extent he limited it to
23 the lowest rate, then I put it to you that he was
24 being more liberal to the railways' rate structure
25 than if he had geared it to variable costs?

26 A. Well, it would all depend, of course,
27 on what he put over the variable cost, I suppose.

28 Q. I suppose it is very simple to think
29 of many instances, but suppose that the lowest
30 competitive rate one could find was a competitive rate



1
2 which returned, say, 30 per cent over variable?

3 A. Yes.

4 Q. Well then, Mr. Harries maximum would be
5 that rate which would be 30 per cent over variable
6 plus 40 per cent?

7 A. Of course, the rate would be 30 per cent
8 over variable for that particular haul, Mr. Frawley,
9 and that would not necessarily follow that it would be
10 for every haul all over the country. There might
11 be a variation.

12 Q. Oh, yes, but if you are endeavoring to
13 analyse, critically analyse his maximum and what it
14 is, he first determines the lowest competitive rate.
15 Now, you do not mean to say -- when you say for a
16 different haul, you do not mean that if you found
17 a competitive rate for ten miles that that would be
18 the rate, that the maximum would be that rate plus
19 40 per cent for a thousand mile haul?

20 A. Oh, no, I would not expect that, but
21 what I did say was that you might be looking at a
22 particular commodity rate on a particular movement
23 as a basis for setting your maximum, and while it
24 might be that that rate made such and such a
25 contribution over variable, it would not necessarily
26 follow that for all comparable hauls over the country,
27 the same contribution would be obtained. There
28 could be variations in the cost.

29 Q. Yes, but since many of your lowest
30 competitive rates -- in fact, I would think the



1 majority of them are not just at the variable cost
2 line, but return something reasonable over that?
3

4 A. Oh, yes.

5 Q. Then, the maximum, the ceiling, the
6 Harries proposal for a ceiling is giving you a good
7 deal more headroom than if he had kept it strictly
8 to the variable cost?

9 A. It would depend on how much a percentage
10 he put over variable cost.

11 Q. It would depend on what percentage over
12 variable cost; the lowest competitive rate that you
13 had returned?

14 A. Or what Mr. Harries might have done,
15 if he had just suggested a straight figure over
16 variable, it would be different.

17 Q. But I am only suggesting to you, to be
18 perfectly fair to his proposal in building it on a
19 competitive rate he is, by the very nature of his
20 proposal, giving you, before we start to add his
21 40 per cent, he is giving you whatever excess of
22 variable is contained in the competitive rate that
23 he would select?

24 A. In that particular rate for that
25 particular haul, but it might not be the same for
26 another haul. That is all I say.

27 Q. Then, his maximum would not apply, then.
28 You would work another maximum on another competitive
29 rate, I suppose?

30 A. I did not understand the proposal that



1 way, but that may be so.
2

3 Q. Another criticism that you make, or
4 perhaps your first criticism is that there is
5 instability in his method?

6 A. Yes.

7 Q. In the first place, I put it to you that
8 there are thousands of competitive rates and agreed
9 charges now in effect and that relatively few of them
10 change in the course of a year, percentage-wise?

11 A. Well, I do not know that I can go along
12 with that. They do vary upward and downward, and of
13 course new ones are coming in at all times, too.

14 Q. Just looking over the range of them for
15 their instability, for their fluctuating character,
16 I put it to you you have a lot of competitive rates
17 that have been there, and they are doing their job,
18 and they are not calling for any particular fluttering
19 at all?

20 A. Yes. If I understand Mr. Harries' proposal,
21 this would mean that the lowest competitive rate at
22 any time on a given commodity would be used as the
23 base for setting your maximum, so that you might start
24 out with a maximum on some kind of goods -- I don't care
25 what it is -- geared to a particular competitive rate.

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2 Then two or three months later a competitive
3 condition arises somewhere else and another competitive
4 rate came in on another basis, maybe water competition,
5 would that not then change the maximum? This is
6 why I say it is unstable.

7 Q. I am only discussing with you how serious
8 the question of the fluctuating character of your
9 competitive rate structure --

10 A. That is an example I gave you.

11 Q. And there may be many instances but
12 I am speaking by and large. By and large, take your
13 agreed charges, you put them in and they stay that way
14 for a year, of necessity?

15 A. Yes, they do.

16 Q. And then if there is no very special
17 competitive situation arising they stay again for another
18 year?

19 A. Or until terminated by notice of either
20 party.

21 Q. But I am saying they are mutually satis-
22 factory, they stay there?

23 A. Yes, if circumstances have not changed
24 that make it desirable for an adjustment in the rates.

25 Q. And I put it to you that in the nature
26 of things one would expect to find a good many of these?

27 A. Yes, there probably would be a good
28 many of them.

29 Q. I mean, that is a situation which you
30 would like to encourage and cultivate, is it not,



1
2 stability?

3 A. Well, of course, we like as much stability
4 as we can get, certainly.

5 Q. I do not like to keep referring to the
6 one case all the time but we do know on one case which
7 is important by virtue of the consequence that flowed
8 from it, and that is the agreed charge on cast iron
9 pipe and that has remained there for a good many years?

10 A. Yes, for a few years it has.

11 Q. And I would think looking at both the
12 agreed charge structure and the competitive rate
13 structure that when it comes to a matter of degree,
14 at least, there is not the fluctuation there that is
15 at all extraordinary?

16 A. Well, I do not know how you define
17 "extraordinary" but there are certain changes made in
18 agreed charges or competitive rates that have been
19 in effect from time to time and also the point, and I
20 think you must not overlook it, is the fact that
21 new competitive rates or agreed charges are coming
22 in on the same commodity. If I understand Dr. Harries'
23 proposal correctly it will automatically change the
24 maximum so it would be a fluctuating thing.

25 Q. Have you done any survey to determine
26 the extent percentagewise of this fluctuation in the
27 competitive rate structure?

28 A. In what period?

29 Q. Well, over the last, say, three or four
30 years or even twelve months?



1
2 A. Well, as to the change in general level?

3 Q. No. Perhaps I should put it, this way:
4 as to the number of rates which in a given period of,
5 say, eighteen months or two years, have remained where
6 they were for that period of time as against the number
7 of rates that have changed either up or down in that
8 particular period.

9 A. Then you have to add the new ones in to
10 make your survey complete.

11 Q. Well, for the purpose of using it to
12 establish a maximum you would not particularly need to
13 add them in, it would depend on where they would go in.
14 I am thinking of the fluctuation, the up and down effect
15 that you are complaining about. I am wondering if you
16 have ever done any survey to determine the percentage of
17 rates which stay there as against the ones that do not
18 stay there?

19 A. And as a percentage of the rates? I
20 think that could be done but I would have to check them
21 as to the ones that have gone up or down and it would
22 be a matter of determining what percentage it was.

23 Q. Another way of looking at it is to
24 assume there is instability?

25 A. Yes, I think it would be.

26 Q. Well, now, if there is instability and
27 some fluctuation at the lower end of the structure,
28 what is there that is so objectionable about the same
29 measure of instability at the higher end?
30



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2 A. As a maximum?

3 Q. Yes.

4 A. Well, I do not think that the fluctuating
5 maximum is at all a good thing on the theory advanced here
6 because, for one thing, this automatically becomes a
7 maximum. As I understand the proposal, any rates above
8 that would have to be reduced. Now, if your maximum
9 changed I assume that brings in this train, more re-
10 ductions to your whole structure changing up and down
11 as a result of just a few rates being changed in that
12 competitive range.

13 Q. I am looking at it for the purpose, in
14 this particular questioning, on the basis that this
15 fluctuating is dynamic.

16 A. Yes.

17 Q. And what I am concerned about is you live
18 with the dynamic competitive rate structure from day to
19 day quite well?

20 A. Yes, we do as conditions may require changes in
21 those rates but this would automatically, as I understand
22 it, change many, many more rates that would really not fluctuate
23 by the other situation at all.

24 Q. You would expect that the maximum was
25 geared to a --- let me take, for the sake of argument,
26 a fluctuating competitive structure, then the maximum would
27 also fluctuate necessarily?

28 A. Yes, it would fluctuate and change many,
29 many rates. I would think that bore no relationship
30 to the rate structure the competitive rates.



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2 Q. Yes, but there would not be any more
3 than one legal rate in effect at one time?

4 A. There should not be.

5 Q. So what I fail to understand is the fact
6 that it is changing just as often as your competitive
7 rate structure changes today, why the fact that the
8 maximum would change requirements or not, the maximum
9 is not going to change in the rates by any automatic
10 process.

11 A. Not all of them, but it would change quite
12 a number and when they change a competitive rate that
13 affects just that particular movement, but under this
14 theory such a change, if related into the maximum, would
15 change many, many rates all over the place and cer-
16 tainly that would be most understandable.

17 Q. It seems to me, Mr. Edsforth, that we
18 are getting down to it: you are saying while we must
19 not change the maximum rate the railway does not like to change
20 the maximum rate because we are very happy with
21 these maximum rates but we must be free to change the
22 minimum rates just as often as the competitive
23 situation requires us to do so or we wish to do so.

24 A. Your term "minimum rate" there I do not
25 think is quite the same.

26 Q. Well, I mean the low rates, the competitive
27 rates.

28 A. Well, they are not the minimum rates,
29 they are the maximum we can get to move the traffic.

30 Q. But they are the low rates?



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2 A. They may be relatively low but not really
3 low, and in all events, Mr. Frawley, I just say this,
4 that a fluctuating maximum which, by its very
5 existence would affect many, many other rates not
6 really involved at all in the competitive situation we
7 are meeting, I think that would just be bad all
8 around, bad for the distributors, bad for the railways
9 and bad for everybody.

10 Q. All it would do, a great many rates would
11 not be affected at all, the maximum would be the ceiling
12 rate?

13 A. Any rate below the maximum but supposing
14 they were below the maximum as established, then your
15 maximum changes then they would become effective.
16 Your maximum goes down and rates that were just below
17 the maximum before then become above the maximum and
18 they change. I think it is the greatest instability.
19 I do not think the shipper would know from one month to
20 another what his rate is going to be.

21 Q. You complain at page 18134 of the possibility
22 of applying the 40% plus to the
23 lowest competitive rate might reduce the maximum rate,
24 as you say at lines 8 and 9, "all other traffic of
that commodity."

25 A. Yes, that is right.

26 Q. Well suppose you had a rate on X commodity
27 in that particular area?

28 A. Yes.

29 Q. It was just a shade above the variable?

30 A. All right, I will take that although I do



1 not think there are many of those, if any. We
2 generally try to get better than a shade.
3

4 Q. Well, you were questioning the use of
5 my equivocal word "extraordinary" and I suppose "shade"
6 is equally equivocal?

7 A. I think it is.

8 Q. That rate making could not be instituted
9 this way by more than 40 per cent under the maximum.

10 A. That is right.

11 Q. But suppose in some other area altogether
12 the rate which was competitive or otherwise that was 35
13 per cent of 40 per cent or 45 per cent over variable
14 you would not need to do anything about that rate?

15 A. Well, I do not know, Mr. Frawley, it would
16 all depend on what the rate itself was. Just the mere
17 fact that one was something over variable and the other
18 one was a greater proportion over variable it would not
19 necessarily follow that it would not be changed. It
20 depends on what your cost may be. You are not looking
21 at the cost, you are looking at the rate level.

22 Q. You say you are looking at the rate level?

23 A. That is how the maximum is fixed.

24 Q. But you are looking at a rate which at
25 all times must return variable?

26 A. Variable plus.

27 Q. Over rate return variable?

28 A. Plus something more.

29 Q. And it returns plus in varying amounts?

30 A. Yes, as conditions permit.

Q. So if you are applying the Harries proposal
to a rate which is in itself giving you forty per



1
2 cent over variable, then the ceiling, the head room he
3 has given you -- it is simple arithmetic -- might be
4 80 per cent over variable, it might be a rate of 180
5 per cent to variable cost?

6 A. It may be but again I say, Mr. Frawley,
7 you would have to examine the individual situation to
8 see.

9 Q. All I am complaining about is the empha-
10 sis that you have been putting upon the fact that he
11 has chosen to gear his maximum to a rate rather than a
12 cost. The rate situation rather than a cost situation
13 is all in favour of the railway?

14 A. Why? I do not understand how you get
15 that conclusion.

16 Q. Suppose Mr. Harries had simply said the
17 maximum that I proposed is one that will be 140 per cent
18 of variable cost. You have the rate movement, that
19 you are going to apply the maximum to?

20 A. Yes.

21 Q. And he says this maximum for this rate,
22 this movement, this haul, this commodity, will be 140
23 per cent of the variable cost of moving that com-
24 modity, of hauling that commodity. Suppose you
25 are moving a shipment of X goods from Toronto to Edmon-
26 ton?

27 A. Yes.

28 Q. And we are endeavouring to put the maximum
29 on it?

30 A. Yes.



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3 Q. And the test is, is this rate
4 that is now being charged more than 140 per cent of
5 variable cost. Now, that would be one test but
6 that is not Mr. Harries' test, is it?

7 A. No, he does not relate it to variable
8 cost, he relates it to rate.

9 Q. But he says we are just endeavouring to
10 cost this particular movement, place a maximum on
11 this particular movement and instead of saying it will
12 be 140 per cent of full variable first you must determine
13 the full variable for that movement and he says, now,
14 what is the lowest comparable rate, all characteristics
15 being correct length of haul, loadability and so on and
16 the maximum will be 140 per cent of that rate. Now,
17 I say at all times suggestion No. 2 that I have just
18 given you is going to be better than suggestion No. 1
19 which I gave you a moment ago?

20 A. I would not like either one.

21 Q. You say what?

22 A. I do not think I could support either
23 one of them.

24 Q. I am quite certain, Mr. Edsforth, that
25 you are not supporting either one of them. I am
26 simply asking you if you must not agree with me that
27 what Dr. Harries proposes is more liberal to you than
28 if you had simply said that the suggested maximum be
29 fixed at 140 per cent of variable cost?

30 A. It may be so in some cases but not
necessarily so in all cases.



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2 Q. Now, I want to pass from that but I
3 will just deal with Mr. Harries before going on to
4 Mr. Roberts. I want to discuss with you for a few
5 moments a proposal that Mr. Harries made with the
6 railways to meet internal market competition. You
7 recall that?

8 A. Yes.

9 Q. You will find that discussion on page
10 18140 and a few pages following?

11 A. Yes.

12 Q. When that question of what you would do
13 -- I think the original illustration came from
14 Commissioner Platt -- in any event, we might as well
15 keep to that illustration, that is the Edmonton company
16 supplied with a certain commodity from Hamilton over
17 the years moving by rail?

18 A. And Calgary also.

19 Q. No. Calgary came into the picture.
20 Calgary is a lot younger than Hamilton.

21 A. A little bit.

22 Q. That is all I will acknowledge is
23 that she is younger. Let us assume now that along
24 the way somewhere Calgary starts producing the same
25 product and wants to also get into the Edmonton mar-
26 ket?

27 A. Yes.

28 Q. Now, you have been handling the
29 business from Hamilton by rail for many years?

30 A. Yes.



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3 Q. Now, what you say is that if the movement
4 was moving by rail from Calgary that you would carry it
5 by rail and if Hamilton said to you, "Well, I want you
6 to help me hold that market in Edmonton as against the
7 supply from Calgary," you would say, "No, I am very
8 sorry, I won't do anything for you at all"?

9 A. There certainly would be no justification
10 in changing the rate from Hamilton.

11 Q. And you would not change it?

12 A. No, we would not, not on those grounds
13 certainly.

14 Q. I have never known you to speak anything
15 other than forthrightly and you mean in those circum-
16 stances you would say, however much it would grieve you,
17 you would say to the shipper in Hamilton, "We will not
18 give you a better rate, we will carry it on the rate
19 you have now and if Calgary beats you into Edmonton
20 then that is too bad"?

21 A. Well, that is because they are in a
22 geographic position to do so and as long as their rates
23 are on a comparable level we would not do anything in
24 Hamilton.

25 Q. And you say there is no doubt about
26 it and if the situation was presented to you in that
27 way that is what you would say. You would be content
28 to give up that 2000-mile haul for the 200-mile haul
29 from Calgary to Edmonton and you would not bat an eye
30 about that, you would say that is the way it has to be?



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2 A. Well, I would not be happy about it, I do
3 not like giving up any traffic but if that is the way
4 the situation was, the Hamilton man could not compete,
5 that is something we could not help.

6 Q. And although that long haul would mean
7 keeping Canadian factories busy that you are very prone
8 to tell us about when we are talking about rates to the
9 west coast, that would go by the board and you would
10 just tell Hamilton you could not do anything for them?

11 A. They would have a factory busy at Calgary,
12 presumably. If they are shipping the same goods in the
13 same quantity what difference would it be?

14 Q. In using the Calgary example, in what
15 you say, I find it hard to believe you would do that.
16 I am not suggesting that I am disbelieving you but
17 I find it very difficult that you would be able to re-
18 sist the pressure from that Hamilton traffic manager.
19 In any event, let us get away from that, that is what
20 you say you would do?

21 A. If, and let us be clear about that, these
22 were the only two competing forces in the Edmonton
23 market. If there was an additional competing force
24 we might have to do something about both but that is
25 a different picture.

26 Q. All right. If the Calgary man found
27 that his product was a product which lent itself to
28 highway transportation?

29 A. Yes.

30 Q. And he began to ship his products into



1
2 Edmonton by highway then you say that you could give
3 the Hamilton shipper a rate which would enable him
4 to hold that market of his in Edmonton?

5 A. Or to meet the changed condition. I
6 cannot give any kind of rate that will hold the market,
7 that is up to him and all I would be doing would be
8 putting in something to meet carrier competition.

9 Q. That is a nasty word and perhaps I
10 should not have said it. What you are saying is that
11 you would then put in a rail rate, you would adjust
12 that rail rate that he had been using for a good many
13 years so as to meet the highway competition?

14 A. The changed circumstances.

15 Q. From Hamilton?

16 A. That is right.

17 Q. And then you say that would meet carrier
18 competition?

19 A. That is right, because that is what it
20 is.

21 COMMISSIONER ANSCOMB: Could I interrupt
22 because I am so anxious to know what this is. I under-
23 stand you to mean that if I was manufacturing in Hamilton
24 and shipping into Edmonton and somebody opened a
25 plant in Calgary and ships by rail that you will give me
26 a rate that will land me into Edmonton the same as the
27 man from Calgary?

28 A. Oh, no, sir.

29 Q. What do you mean?

30 A. All I mean is we would give the break to
the man at Hamilton, adjust to reflect the changed



1
2 conditions. In other words, let us say for instance
3 that the man from Calgary to Edmonton had been
4 shipping by rail to Edmonton at 50 cents and he gets
5 a motor carrier rate of 35 cents, a 15 per cent return,
6 then the man at Hamilton says, "I would try to compete
7 here but now this man has a 15-cent advantage on the
8 transportation cost which puts me out of line."
9 Then we should make an adjustment from Hamilton, we may
10 take 15 cents off the rate.

11 THE WITNESS: This is the relative charge
12 went down 15 cents the same as from Hamilton and
13 Calgary.

14 COMMISSIONER MANN: You do this to maintain
15 the differential in dollars and cents between the two
16 producers?

17 A. Yes, that might be one way. I do not
18 say that is exactly the way.

19 COMMISSIONER MANN: That would be the goal
20 that you would have in mind?

21 THE WITNESS: Yes.

22 COMMISSIONER BALCH: And the adjusted rate
23 from Hamilton would have to be compensatory?

24 A. Oh, definitely, it would not be made un-
25 less it were.



1
2 MR. FRAWLEY: Q. That is not exactly what
3 I was thinking about. I was giving you an instance of
4 where you had been shipping in and carrying the
5 Hamilton goods for many years with nothing manufactured
6 to compete with it at Calgary at all.

7 A. I see.

8 Q. Or in Regina or Winnipeg or anywhere
9 along the line. Then, Calgary discovers, through
10 dint of some capital coming into the area, and someone
11 undertakes the manufacture of that same product and
12 you have the same receiver in Edmonton and the same
13 Edmonton market: Now, if the Calgary man starts off
14 by shipping rails, obviously he can ship by rail more
15 cheaply from Calgary to Edmonton than the Hamilton
16 man?

17 A. That is so.

18 Q. Then, the Calgary man comes in new but
19 the Hamilton man sees that his market is lost that he
20 has built up over many years?

21 A. Yes.

22 Q. And he says, "I want to stay in the
23 Edmonton market against this man in Calgary who has
24 just begun"?

25 A. Yes.

26 Q. What do you do to him?

27 A. I say that I am sorry but I cannot do
28 anything to help him.

29 Q. Nothing at all -- no adjustment at all?

30 A. In the freight rate?



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Q. Yes.

A. No.

Q. Nothing happens at all?

A. No.

Q. And you just let that Hamilton man
lose the business into Edmonton?

A. Well, It is not a case of my letting him
lose the business. The fact the business is being lost
is because a new supplier has started up at a point
nearer by.

Q. And you do not do anything for him at
all?

A. Not under those conditions.

Q. Now, the other condition is present,
and the man is shipping by road and not by rail --
from Calgary I mean.

A. By highway?

Q. Yes, and you say, "I will let that man
ship by highway but I am going to give my man ..."
and this is a new movement by highway; you have never
had it, and you are not having it now.

A. Of course, we would try to get it if
we could.

Q. Yes, but assuming he held to the highway
transport.

A. All right.

Q. The Hamilton man comes along and says, "I
have lost my good account in Edmonton".

A. Yes.



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Q. "And I want you to do something for me".

A. Yes.

Q. What would you say?

A. And one of the reasons he has lost it in part -- not in total -- but in part, is that the man is getting a lower rate from Calgary over the highway, and that is something we can give consideration to.

Q. A lower rate -- no, he is not getting lower than anything: it is a first time rate.

A. He has got a lower rate than he would otherwise get by rail on the same basis as the Hamilton man.

Q. No, I am not assuming that. I am assuming he has got an ordinary, reasonable highway rate which may be exactly the railway rate if there were a railway rate there, but he chooses to give it to the highway for some reason or other -- he may have a highway subsidiary, or anything you like to imagine -- and the Hamilton man says, "I do not want to lose that good account in Edmonton; the market is still there and my receiver is willing to buy, and can you do nothing for me at all?", and you say, "I cannot do anything at all"; is that right?

A. If the man is shipping by highway.

Q. The Calgary man is shipping by highway.

A. I think then we can do something for him on the basis of the highway competition, yes.

Q. On the basis of the highway competition?



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A. Yes.

Q. Well, I can see something you could do for yourself: you could start hauling it from Calgary, and I would think that is exactly what you would do.

A. Of course, I would, if I got a proper rate.

Q. And according to your scheme of things you would again turn your back on the Hamilton man?

A. I do not know there, but probably you would have to unless the truck competitive rate had made a very substantial reduction.

Q. So, you might meet the highway competition -- you would endeavour to meet it?

A. Yes.

Q. And at the moment that has nothing at all to do with your Hamilton man?

A. Not at the moment.

Q. It has to do with your own traffic between Calgary and Edmonton?

A. Yes.

Q. And you would make every effort to get that traffic on the rails?

A. Yes.

Q. And if you did that, I put it to you you would probably have a bigger net than bothering at all about giving the Hamilton man an adjustment?

A. That would depend on circumstances. I do not know what the net would be. No one can tell, but I would think not. I would not think the bigger



1
2 net would be there in the aggregate.

3 Q. But not meeting internal market
4 competition, as soon as you get that traffic on your
5 rails then the Hamilton man is shut out of any
6 possibility of getting an adjustment; just by doing
7 that you just lost the business from Hamilton to
8 Edmonton?

9 A. Not necessarily, of course; the man
10 might still keep in the business. That would be
11 something he would have to do.

12 COMMISSIONER BALCH: Mr. Edsforth, should
13 you have to reduce, we will say, the rail rate from
14 Calgary to Edmonton because of the competition of the
15 trucks?

16 A. Yes.

17 Q. Would you then take an opportunity to
18 reduce probably from Hamilton to Calgary?

19 A. Well, Commissioner Balch, we might.
20 That would depend a lot on the circumstances, but I
21 do not think we would necessarily, because after all
22 it is a competitive situation in one part of the
23 country and not affected in the other. I do not think
24 we would.

25 MR. FRAWLEY: Q. I have another question
26 I would like to ask you: you say if this was moving
27 by highway from Calgary to Edmonton you would do
28 everything you could to meet it and get it back on
29 the rails?

30 A. From Calgary to Edmonton?



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Q. Yes.

A. Oh yes, of course, providing we could make a profit on it.

Q. Well, this is a sort of a subsidiary question: supposing Dench of Canada had that business; would you endeavour to get it on your rails?

A. I think we would meet truck competition whatever it is, whether it is Dench or anybody else.

Q. I thought you were now endeavouring to correlate truck and rail?

A. Well, of course, we are trying to correlate truck and rail, but even so we would meet truck competition whether it is Dench or any other carrier, because by and large they charge the same rates.

Q. You are not asserting that there is any misallocation of resources in moving goods on that highway between Calgary and Edmonton, and that they should be on that rail line that parallels it?

A. I do not quite understand how you would consider that misallocation of resources.

Q. I would think you would just leave it right there with Dench and you would be quite satisfied at the end of the year the profits would be going into the general till of the CPR and you would not be out to take that business from Dench; is that not what you would do?

A. No, I do not think so.

Q. What do you have Dench there for --



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2 to go and get an account and take it away from them?

3 A. No, of course not. Densh is there for
4 other carriers. We cannot always meet truck competition,
5 you know that. We cannot always meet their rates on
6 certain hauls; we cannot always meet their service. So,
7 this is another type of transportation we think we should
8 be in because they have certain advantages that rails
9 do not have, and vice versa.

10 Q. But if there was highway movement there
11 and in that particular posture of things the Hamilton
12 man said he wanted a rate, would you give him the rate
13 because you are saying you want to meet that highway
14 competition from Calgary to Edmonton?

15 A. I am not saying necessarily we would do
16 it, but I think it would be proper to do it if there was
17 advantage in it. I would not say we would do it
18 automatically by rule of thumb.

19 Q. I put it to you if that situation came
20 about you might be meeting the carrier competition and
21 the Hamilton shipper would be meeting the market
22 competition?

23 A. That could be.

24 Q. And in the face of that, if that is the
25 real economic fact, I do not know what you mean when
26 you say that you are not meeting market competition?

27 A. Because you have just said yourself
28 the Hamilton man is meeting that -- not the railway.

29 Q. You are the instrument of allowing him
30 to meet it?



1
2 A. All we are doing is meeting carrier
3 competition.

4 Q. But it is Tweedledum and Tweedledee. .
5 You put your blinkers on and say, "I am just meeting
6 the carrier competition", but knowing that by doing that
7 you are enabling the Hamilton supplier to meet the
8 market competition in Edmonton ---

9 A. I do not allow the Hamilton supplier to
10 do anything. He does what he can himself because
11 transportation costs are not the only factor between
12 getting and losing a market.

13 Q. Let us take another example: suppose I
14 have a plant at Hanna which is a Canadian National
15 local point, and Mr. Mauro has a plant at Wataskawan?

16 A. Yes.

17 Q. And that is a local CPR?

18 A. Right.

19 Q. And we are both seeking entry to the
20 Calgary market with some commodity that we both make?

21 A. Yes.

22 Q. And suppoing that the Canadian National
23 reduced that rate from Hanna to Calgary for some reason
24 good enough to themselves.

25 A. You mean bring it down below -- you are
26 assuming that initially ---

27 Q. I am assuming -- I am sorry, I should
28 have said that, because making a rough approximation,
29 Hanna is about equidistant with Wataskawan from Calgary.

30 A. Yes, and they are both moving at the



1
2 same rate, or at the same rate relative to distance.

3 Q. The same level of rates, yes.

4 A. Yes.

5 Q. And they are both able to get in and
6 share the Calgary market, and you are able to help the
7 Wataskawan man, but you could not care less about the
8 Hanna man, and, contrary-wise, the Canadian National
9 is anxious to get the Hanna man into the market.

10 A. Yes.

11 Q. In that situation Canadian National
12 reduces the rate from Hanna to Calgary.

13 A. As a normal rate -- not to meet truck
14 competition? For what reason?

15 Q. I can certainly assume, knowing the
16 geography of that country, Hanna being out to the east
17 of Calgary and Wataskawan to the north, both on
18 excellent highways -- let us say it is reduced to meet
19 highway competition, if you like.

20 A. Yes.

21 Q. I put it to you that you would
22 immediately reduce the rate from Wataskawan even though
23 you had no threat of highway competition there.

24 A. If the rate from Hanna was reduced to
25 meet highway competition?

26 Q. Take it on that basis, yes.

27 A. And yet there was no highway competition
28 from Wataskawan?

29 Q. There is a highway there, but assuming
30 that you were not threatened at all with highway



1
2 competition: I put it to you that as soon as the CNR
3 from Hanna went down, you would put the rate down from
4 Wataskawan?

5 A. I do not know about that. That is
6 something we would have to judge on the circumstances,
7 but I would say this, that if there is a movement taking
8 place in volume from both points, and there is motor
9 truck competition from Hanna, they would very likely
10 get it from Wataskawan if there is a highway there.

11 Q. Well, suppose there was not motor
12 competition; suppose the shipper at Hanna convinced
13 the Canadian National that he did not have the economies
14 of scale that the man at Wataskawan had, or some other
15 reason, and he began to see the loss in the Calgary
16 market, and he convinced the Canadian National they
17 had better give him a better rate: that is all that
18 happens and the rate goes down 15¢ a hundred.

19 A. The Canadian National give him a better
20 rate so he can beat the Wataskawan man out of the
21 market -- I do not think they would do that.

22 Q. You do not?

23 A. No.

24 Q. Well, I do not know why -- if they are
25 running an independent railway, I do not know why they
26 would care about that supplier in Wataskawan.

27 A. They might care about it, but, after all,
28 they have got a normal rate and they would be then
29 what you might say meeting internal market competition
30 if they reduced the rate so he could beat out the



1
2 Wataskawan man.

3 Q. Well, perhaps we are getting at the
4 root of it.

5 A. I do not think they would.

6 Q. Suppose the Hanna manufacturer convinced
7 the railway that he was not having a rate that he needed;
8 suppose he had an increase in his plant wages or something
9 of that sort -- something had happened to distort his
10 picture, and he asked the Canadian National to give
11 him a better rate to even hold what he had in Calgary.

12 A. I do not think they would.

13 Q. I am asking you to assume that they have
14 given him a reduced rate.

15 A. I see, and it is not marked competitive?

16 Q. Let us take it on both footings: say it
17 is not marked competitive; what would you do up in
18 Wataskawan?

19 A. I think we would certainly reduce the
20 rate to the same level, because they had the same
21 rates before.

22 Q. Suppose they gave it to him to meet
23 some highway competition -- some competition that became
24 actual rather than potential, at Hanna, and it was only
25 potential -- it is always potential; any half mile
26 between Edmonton and Calgary is potential highway
27 competition?

28 A. Yes.

29 Q. And I put it to you they reduced it from
30 Hanna to Calgary based on truck competition: again,



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2 I say you would reduce that rate.

3 A. From Wataskawan?

4 Q. To Calgary.

5 A. There is a likelihood we would because
6 I think motor truck competition would be there, and,
7 if it was not, it very soon would be.

8 Q. Mr. Edsforth, I am not doing anything
9 more than just putting a little bit of flesh on the
10 bones that you got from Mr. Commissioner Mann the other
11 day, and I am reading at page 18143, and Mr. Commissioner
12 Mann put that to you.

13 A. Yes.

14 Q. And at page 18143 you said, "Well, I
15 think in that case then a reduction from the other
16 shipping point would be perfectly justified."

17 A. And that is what I have just said to
18 you.

19 Q. And I put it to you you are doing
20 nothing else but meeting market competition, and so
21 long as you have another railway ---

22 A. No, you are not, because you are not
23 giving one man an undue advantage over the other. They
24 have both got the same haul and they are entitled to the
25 same level of rates in that case.

26 Q. It may be carrier competition to you,
27 but it is market competition to the shipper, I put it
28 to you?

29 A. That may very well be, but I do not
30 know what your point is there, Mr. Frawley?



1
2 Q. You say so long as you are deliberately
3 not meeting the market competition, even though you
4 are enabling market competition to be met, that is not
5 meeting market competition?

6 A. Wait a minute; I do not quite follow
7 that question.

8 Q. You maintain that you do not as a railway
9 meet market competition?

10 A. Not internal market competition. We
11 meet outside market competition -- external?

12 Q. Internal market competition, you say
13 you do not meet?

14 A. That is right.

15 Q. I say you create rate situations which
16 enables market competition to be met.

17 A. Such as what?

18 Q. Well, such as the man in Hamilton holding
19 his market in Edmonton against a new supplier in Calgary
20 -- that is meeting market competition.

21 A. You mean to say we would adjust a rate
22 from Hamilton to enable him to do that?

23 Q. Yes.

24 A. Well, I should say to assist him.

25 Q. But you say you do that?

26 A. I do not; I say we would not.

27 Q. You say you would if it was moving
28 from Calgary to Edmonton by highway?

29 A. I say we might; it would depend on
30 circumstances. It does not automatically follow.



1
2 Q. And if you did it, then the supplier
3 in Hamilton would be thereby enabled to hold his
4 market in Edmonton?

5 A. He may or may not; all we meet is
6 carrier competition.

7 COMMISSIONER PLATT: Just one point on that:
8 I am a fellow in Calgary and a smart salesman comes
9 in and talks me into buying my own trucks -- perhaps
10 for advertisement value or perhaps because I look
11 stupid, but for whatever reason it is -- and I buy these
12 trucks: does that make any difference to the rate
13 from Hamilton to Edmonton?

14 THE WITNESS: It might well, Mr. Commissioner
15 Platt, yes; that is to say, if you were handling your
16 own goods from Calgary into Edmonton which perhaps
17 had not formerly been moving by the rail, yes, I think
18 that could be a reason for us making an adjustment in
19 the rate from Hamilton. It would not necessarily
20 follow, but it would give us a reason for doing it.

21 MR. FRAWLEY: Q. And what would you call
22 that?

23 A. That is meeting carrier competition.
24 Carrier competition is private carriage.

25
26
27 --- A short recess ---
28
29
30



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2 THE CHAIRMAN: Order, please.

3 MR. FRAWLEY: Q. Mr. Edsforth, I would like
4 now to discuss with you a little bit the memorandum of
5 Dr. Roberts?

6 A. Yes.

7 Q. If you will look at volume 109 and there
8 at page 18148, without reading it all, I simply put it
9 to you that there you take the position that the pre-
10 sent system of testing rates was not circular; did not
11 suffer from circularity?

12 A. Yes, that is right, Mr. Frawley. This
13 circular test of reasonableness, or something, I
14 think they called it.

15 Q. I will just read this to you, from page
16 18148, starting at line 6:

17 "A. That is right, I remember that. By that
18 I think they mean we just went around in
19 a circle comparing one rate with another
20 and getting back to where we were but that is
21 not testing a rate in the way I had in
22 mind. What I had in mind was to maintain
23 a reasonable relationship so your structure
24 will not get all out of balance."

25 A. Yes.

26 Q. Mr. Edsforth, isn't that precisely the
27 circularity that Dr. Williams and Dr. Roberts were
28 pointing at?

29 A. I do not think so, Mr. Frawley. I do
30



1
2 not believe it was. I think that -- and, perhaps I
3 misunderstood them ---

4 Q. I put it to you another way. Both
5 rates, you say both rates -- that is, what we might
6 call the suspect rate and the rate being used for
7 comparison -- both rates are reasonable, according to
8 your test, so long as they are reasonably related?

9 A. No. I said -- that is only part of it.
10 I think in my evidence, Mr. Frawley, I gave several
11 things that were a proper test of reasonableness. I
12 said comparison of rates was one, but that is not the
13 only one.

14 Q. Oh, yes, and I want to examine those
15 other things that enable the traffic to move freely
16 and make the maximum net revenue contribution.

17 A. And make sure they were not below their
18 costs of handling, plus their contribution, and a
19 reasonable ceiling above.

20 Q. I put it to you as you explained it
21 there in answer to your own counsel there, you are
22 saying that these rates are reasonable so long as each
23 one justifies the other?

24 A. No, I did not say that. What I did say
25 there was that what Dr. Roberts had said, and I think
26 Dr. Williams too, perhaps ---

27 Q. Yes, I think you will find that they
28 are together there.

29 A. --- a circular test of reasonableness was
30 simply a comparison of one rate with another, and then



1
2 that with another, and that was the beginning and the
3 end of it, but that is not so. I said, yes, we do
4 compare rates with other rates to make sure they are
5 in their proper relationship with those other rates
6 and in the rate structure, but that does not stop there,
7 Mr. Frawley. That is the distinction I make.

8 Q. Oh, yes.

9 A. That is not the only test.

10 Q. They did not accuse you of any circularity
11 of reasoning when you said the rates must be such as
12 to maximize the revenue contribution and the rates
13 must be such as to keep the traffic flowing freely.
14 They simply put it to you that you were guilty of
15 circularity of reasoning, that the old traditional
16 test was unsound, because you were simply comparing the
17 suspect rate with a rate you selected from the structure
18 to compare it with.

19 Frankly, I thought when I read it that Dr.
20 Williams or Dr. Roberts or myself could not have put
21 it better or more clearly than you did:

22 "What I had in mind was to maintain a
23 reasonable relationship so your structure
24 will not get all out of balance."

25 Let me put this to you. What is there in the process
26 that you use that tells you if both rates are too high?

27 A. Well, I go on to spell out the other
28 tests that I talk of, Mr. Frawley.

29 Q. Suppose that both keep the traffic
30 moving; both maximize the revenue, so then they are both



1
2 all right, aren't you just lifting yourself up by the
3 boot straps again?

4 A. No, I do not think so at all.

5 Now, your test of reasonableness is
6 not only as to the maximum level; it is also as to
7 the minimum level. The rate must be both reasonable
8 to the railway and to the shipper.

9 Q. It must return variable plus something?

10 A. Plus its contribution, yes, and also ---

11 Q. I was not really down in that basement
12 at all; I was up somewhere on the first floor, anyway, and
13 we were talking about those nice rates that move farm
14 machinery from the border into Calgary and Edmonton.
15 Those are just as good as any; if they don't serve
16 any other purpose for western Canada, they afford me
17 an excellent example from time to time when I am
18 talking about what is wrong with the rate structure.

19 If you were going to examine those
20 farm machinery rates from Coots -- I don't know whether
21 you take any from Coots or not -- some by Emerson; some
22 by Northgate and so on; you have been accused (whether
23 before the Board or just in conversation) that those
24 rates are too high. But you tell me they are not too
25 high; they fit in very well with the rates on oil well
26 machinery, or any goods of that general character in
27 the durable goods industry -- if I might be so bold
28 as to venture into that language. In any event, that
29 is how you compare them. You look at the farm
30



1
2 machinery rates, and then you say, "Now, if you
3 look at these rates over here, Mr. Frawley, you
4 find those farm machinery rates are not out of line
5 at all"?

6 A. We do not say that at all. That is
7 not the only test, by any means.

8 Q. That is not the test by any means?

9 A. That is not the only test by any means,
10 I said. That might be something you look at. You
11 would, of course, look at the amount of traffic; its
12 loadability and all those things -- its value. All
13 those things are tests, not just comparing one thing
14 with another..

15 Q. And if they all had similar loadability
16 characteristics; if they all had similar value character-
17 istics, and if they all had about the same length of
18 haul, you say that proves they are reasonable rates?

19 A. If one is reasonable, the other is, but
20 that is not the test of circularity.

21 Q. That is right. But, as I said before,
22 are you able to answer that question, Mr. Edsforth,
23 before I leave it. What is there, in your process,
24 to enable you to say if they are both too high?

25 A. Well, as I say, you have examined the
26 goods themselves; you had looked at all those factors
27 that I have looked at, and you see what their loadability
28 is; what the rate level does for you -- does it return
29 you something over your cost; is it below the cost rate
30



1
2 ceiling, and is it reasonable in relation to distance?
3 Those are all the things you must examine.

4 Q. You would ask the same questions of
5 each group of rates; and, if what I might call the --
6 there is a technical word for it -- one we will call
7 the "suspect rate", and the other, perhaps the normal
8 or standard rate, the rate you are using for the pur-
9 pose of testing.

10 But, in any event -- the key rate. My friend
11 Mr. Cumming suggests the "key rate". If you would
12 judge the suspect rate in the light of the key rate?

13 A. Well, ---

14 Q. If they all had similar characteristics?

15 MR. SINCLAIR: What is a "key rate"?

16 MR. FRAWLEY: Well, my friend has just sug-
17 gested -- I just picked my friend Mr. Cummings' word.
18 I was just trying to find a word to describe this.

19 Q. The suspect rate and the rate by which
20 you were seeking to test the suspect rate ---

21 A. By "suspect" do you mean it is a rate
22 that is suspected of not being reasonable?

23 Q. The rate that somebody would suggest, and
24 I would suggest it again -- the farm machinery rates
25 coming from the border points to Calgary and Edmonton
26 are certainly unreasonable because they are too high
27 over maximum and over cost. That is what I say. You,
28 not being in that world at all, you say, "Oh, no, we
29 will compare those farm machinery rates with some other
30 rates of a similar kind -- loadability, and all other



1
2 shipping characteristics -- value ---"

3 A. We will consider them in and of them-
4 selves, too; all their own loading characteristics,
5 what we get on a car, the kind of equipment we use.

6 Q. You never compare them as to how much
7 of a contribution to overhead they are making one
8 against the other?

9 A. We might look at that, too, Mr. Frawley.

10 Q. We will leave that question of circularity
11 and come to what you say on the same page with regard
12 to moving traffic, and you say just a little further down
13 the page, at line 20:

14 "... a reasonable rate is one that must at
15 least meet the variable cost of handling
16 the traffic plus something more."

17 That is fundamental. If you do not do that you would
18 be in trouble under Section 334 of the Railway Act?

19 A. We would be in trouble financially, too.

20 Q. Yes, you certainly would. If you had
21 too many of those, the auditor would be wondering what
22 happened to the freight department. It does not seem
23 to knock him off the seat when he looks at the passenger
24 rate receipts, but that is something else. He knows
25 that the freight is always there to carry along the
26 passenger.

27 A. Some of it, anyway. Not all of it.
28 There is quite a section that does not.

29 Q. I suppose that The Canadian on a good
30



1
2 hot summer day does very well for itself, I suppose?

3 A. I was not talking about The Canadian;
4 I was talking about the freight rates, and specifically
5 the rates on the grain that do not carry their load.

6 Q. Oh, I see. I was thinking about
7 passenger, and you were thinking about grain. It just
8 goes to show how we are worlds apart.

9 Now, Mr. Edsforth, you say there, going
10 on at line 20 on page 18148:

11 "That is, as a minimum ---"
12 That is, that you have to get back your variable cost?

13 A. Plus a contribution.

14 Q. "That is, as a minimum, and above
15 that it should be at a level which will
16 enable the traffic to move freely and
17 make the maximum net revenue contribution."

18 A. Yes.

19 Q. Now, it seems to me that you think,
20 having said that, that that objective is an objective
21 that is good for the railway?

22 A. Yes.

23 Q. And it is also in the public interest?

24 A. Yes, I would certainly think so.

25 Q. It serves the public interest?

26 A. It serves the public interest.

27 Q. And you think, therefore, that those two
28 concepts -- that is, the fact that those characteris-
29 tics are good for the railway, and what is in the
30



1
2 public interest -- that they necessarily coincide?

3 A. You mean that what is good for the
4 railway necessarily coincides with the public interest?
5 Is that what you mean?

6 Q. I was just wondering what your ---

7 MR. SINCLAIR: Call it Wilson. He got
8 into trouble on phrasing it like you.

9 MR. FRAWLEY: Q. That is kind of inter-
10 esting; the way you put that to me, Mr. Edsforth, is
11 rather intriguing. Do you hesitate when you say that
12 -- that what is good for the railway might sometimes
13 not be in the public interest?

14 A. No, I did not suggest that at all. I
15 am asking if it is your question.

16 Q. What I suggest to you, the way you are
17 putting it to the Commission, that those two things --
18 that is, the fact that a rate must enable the traffic
19 to move freely and make a maximum net revenue contri-
20 bution -- that is good for the railway and good for the
21 public interest?

22 A. I say it is good for the railway and, of
23 course, if the traffic is moving freely, then surely it
24 must be in the public interest, too, because it must be
25 in the public interest to have the traffic move freely.

26 Q. And making the maximum net revenue
27 contribution is in the public interest?

28 A. So long as the traffic moves freely, yes.

29 Q. I want to give you a little bit of an
30



1
2 example, and we will get away from freight rates for a
3 moment.

4 Suppose that you are a householder receiving
5 a water supply, and that the supply of the commodity,
6 being limited to one person, which is the usual situation
7 -- isn't it?

8 A. Yes, I guess so.

9 Q. And, then, as a matter of fact ---

10 A. Or one family, or group of families, say,
11 in an apartment.

12 Q. That is on the receiving end, but the
13 supply end is generally in the hands of one person or
14 corporation?

15 A. Yes, the supply end.

16 Q. That would be pretty well a true monopoly?

17 A. Yes.

18 Q. Just like the supply of telephones in
19 Canada today. That supplier would be just as inter-
20 ested as you are in your freight rate work in the
21 free movement of his product?

22 A. Well, he would be interested in selling
23 water, yes.

24 Q. But suppose in what he regards as his own
25 self-interest he sets a price which is twice the
26 present level, and as a result you and many other house-
27 holders in your area cut your use of water by one-third?

28 A. I find it hard to visualize.

29 Q. I don't know -- you might decide that you
30 would perhaps -- if the price of water was going to be



1
2 doubled you might go a little shy on watering the
3 flowers, as often as you might otherwise. Or, you
4 might go to electric shaving and not use any water
5 on the brush.

6 A. I don't think I would do that because
7 the price went double.

8 Q. Now, that man, having increased the price
9 by two, and having suffered some diminution of his
10 supply by virtue of this rather drastic action of doubling
11 the price, he would be making more money, of course, if
12 he was doubling the price and only losing
13 one-third of his volume. He would be doubling the
14 price and the water would be moving freely; whatever
15 was moving would be moving freely?

16 A. When water moves it moves freely.

17 Q. If it moves at all, it moves freely, yes.
18 Except in the winter time when it is frozen.

19 A. When it is frozen like the freight rates.

20 Q. The freight rates are frozen even in
21 July and August?

22 A. They have been frozen for many years, Mr.
23 Frawley.

24 Q. Oh, yes, only some of them.

25 A. Quite a lot of them, Mr. Frawley.

26 Q. All right. Now, that is so much for the
27 supplier. He has maximized his revenue, and he has
28 the water flowing freely. But would you as a householder
29 consider that the situation was ideal if the price
30 caused you to cut your use back by one-third?



1
2 A. Well, I don't know, Mr. Frawley. Of
3 course, it would all depend on what it was costing the
4 man to supply the water, surely. I don't know whether
5 you might consider it as ideal if your water bill went
6 up, but you would expect to pay more if it cost more to
7 produce it.

8 Q. You would not feel as a receiver, on the
9 other end -- not as the supplier of the commodity
10 (transportation and water) -- you would not feel that
11 the price was necessarily reasonable just because it
12 maximized the supplier's profit and kept a free flow
13 according to that supplier's standards?

14 A. Well, of course, I would feel it was
15 reasonable if the alternative was that the man was
16 going to stop supplying water and go out of business.

17 Q. The mere fact you had to reduce your
18 take because he doubled his price -- he still has a
19 free flow, and he has maximized his profit -- but I
20 suggest you would feel that that would be anything but
21 in your interest as a householder?

22 A. Not necessarily, because I still want
23 to get water; I still need water, surely, and if it has
24 to be that the price must go up so I can still continue
25 to get it then I do not think I am being disabled in
26 any way.

27 Q. Even if you had to reduce your take of
28 the commodity by one-third in view of the increase by
29 one-half?

30 A. That might be the result, depending on



1
2 your own circumstances, Mr. Frawley.

3 Q. When you say that you must have a rate
4 which will maximize your net revenue contribution and
5 keep the traffic moving freely, then you are virtually
6 saying that there should be no control; that the
7 sky is the limit, to use a colloquial expression?

8 A. No, Mr. Frawley. I think we still say
9 that there should be a ceiling on rates -- maximum
10 rates, under which we have today the class rates. I
11 think that is what I put in one of my tests of reasonable-
12 ness, that over all there should be ceiling rates, but
13 gradually in accordance with the kind of traffic that
14 is involved, so that your ceiling would be different
15 for the different commodities.

16 Q. You say that wherever the demand permits
17 and where the competition is imperfect -- and that
18 is the area I want to discuss -- and wherever the demand
19 is sufficient and strong enough and the competition is
20 imperfect, that then ---

21 MR. SINCLAIR: That is everywhere.

22 MR. FRAWLEY: Q. Then, you say that you
23 should be permitted to charge what you like?

24 A. You say where the competition is
25 imperfect and the demand --

26 MR. SINCLAIR: That is everywhere, except in
27 the class room. Perfect competition is found in the
28 class room and nowhere else.
29
30



1
2 MR. FRAWLEY: Q. Now, I put it to you that
3 where the demand will permit it and the competition is
4 not particularly effective in that area then you say
5 that there should be no limit.

6 A. I do not say there should be no limit.

7 Q. What limit do you say there should be.

8 A. I say, of course, the limit is the level
9 of rates which will enable all traffic to move and move
10 freely.

11 Q. That is the only limit?

12 A. That is the practical limit, Mr.
13 Frawley, and overall, of course, you have your class
14 rate ceiling.

15 Q. Oh well, the class rate ceiling is some-
16 what astronomical?

17 A. No, I do not think it is astronomical
18 at all.

19 Q. What is the class rate to move coal
20 from Alberta to Ontario? \$40.00 a ton?

21 A. I could not tell you that.

22 Q. Well, about \$40 per ton.

23 A. It depends on how far you are going.
24 Sometimes things have an economic range.

25 Q. But it is just the class rate ---

26 A. It is not the class rate on coal, it
27 is the class rate on everything that has the same
28 class rate as coal.

29 Q. I put it to you that so long as the
30 demand allows you to and so long as the competition



1
2 does not hold you back then you say the control should
3 simply be the free flow of the traffic and the maximizing
4 of the net revenue.

5 A. Yes, I think that is really what sets
6 the proper level of your rate.

7 Q. I say that virtually is a negation of
8 control?

9 A. I do not think it is.

10 Q. Now, I put to you also that your rules
11 for the fixing of maximum is in the absolute sense
12 wrong. Is it possible for you to conceive of, under
13 your concept of economic rates, some shippers may be
14 paying more in the absolute sense than is proper. I
15 mean, in the absolute sense as distinct from the
16 relative sense, they may be paying more, too much
17 money in the absolute sense than they should be paying.

18 MR. SINCLAIR: Of course, I would have to
19 say absolute to what?

20 MR. FRAWLEY: Q. Just in the absolute that
21 they are just paying too much. Now, without being
22 colloquial about it, they are paying too much, period.

23 A. Well, Mr. Frawley, paying too much,
24 why do you say they are paying too much?

25 Q. Do you conceive ---

26 A. What is the test of paying too much.

27 Q. I will discuss it with you. Is it
28 possible for you to conceive that by virtue of the
29 fact of the maximum rule that you hold to, is it
30 possible for you to conceive that some shippers may



1
2 be paying rates that are too high.

3 A. I do not know. I do not see how I
4 can conceive that if they are paying rates and the
5 traffic is moving, surely that rate is not too high.

6 Q. Also, suppose that the high rates the
7 shipper is required to pay is passed along in the
8 prices of the commodities that are carried, that will
9 restrict and reduce general purchasing power, will it
10 not, of other commodities?

11 A. It may or may not, I do not know --
12 it will depend on the circumstances.

13 Q. Well, it would be likely to do that
14 if he is paying more in the absolute sense, that is,
15 simply paying an excess over costs, a considerable
16 excess over cost.

17 MR. SINCLAIR: Now we know what absolute
18 means.

19 MR. FRAWLEY: Q. I put it to you if he
20 passes that excess on the price of his goods, if he
21 is a trader instead of an immediate consumer, if he
22 passes that on it will reduce the general purchasing
23 power for other commodities.

24 A. I do not know whether it would. It
25 does not necessarily follow any more than if he passes
26 on a new wage cost that he has or an increase in his
27 taxes or any of these things that enter into his
28 landed cost of goods.

29 Q. If it restricts the profits of the
30 receiver then is the result not virtually the same if



1
2 the excess price is absorbed by way of some shrinking
3 of his profits? In the one case there is restriction
4 of purchasing power and in the other there is
5 restriction of profits which go to the expansion of
6 his business.

7 A. And, of course, that can happen by an
8 increase in any of his costs of doing business.

9 Q. That is right, but by virtue of those
10 things, I put it to you that it is impossible to test
11 the legitimacy of a freight rate by ascertaining
12 whether or not it is maximizing or not maximizing the
13 net revenues of the regulated company.

14 A. I did not say that was the only test
15 but it certainly is one test in that the rate will
16 permit the traffic to move freely.

17 Q. Do you think a rail rate of 15¢ a ton
18 mile would be reasonable so long as it moved the
19 traffic in the sense you have been using it here.

20 A. It would depend on the size of traffic,
21 what kind it was, the amount of loading it had -- it
22 might well be.

23 Q. I think we are getting quite close to
24 enable me to understand what you are really saying
25 here. Now, you say it does not matter whether it is
26 15¢ a ton or twice that, 30¢ a ton, so long as it
27 does not offend my rate, No. 1, the traffic must flow
28 freely and rule No. 2 it must maximize my net revenue.
29 So long as those two conditions are met there is
30 nothing wrong in 15, 30, 50¢ a ton mile.



1
2 A. Of course, if it is 15¢ a ton mile
3 mile the reason most likely would be is that it is
4 some traffic which is light and bulky and expensive
5 to handle. You have to take that into consideration,
6 you must not forget your cost of handling because that
7 is a very valid test of reasonableness too.

8 Q. Take for the purpose of my question,
9 suppose it is 15¢ a ton mile on traffic that has
10 no particular difficulties with regard to load or
11 handling or claim experience or anyone of the many
12 matters that enter into the making of a rate so it
13 could go as high as you care to put it because you have
14 no restrictions except those two things, it must move
15 freely and maximize the net revenue.

16 A. You are posing something that I cannot
17 visualize in that particular case.

18 Q. I am just wondering. I will leave that
19 now but I was just wondering how I have to leave it.
20 You are not disturbed by me putting to you an instance
21 where a rate was returning 15-20¢ a ton mile, that in
22 itself would not disturb you at all.

23 A. Mr. Frawley, as I say I would have to
24 look at what the traffic was, what kind of a movement
25 it was, how it loaded ---

26 Q. Those are the costs.

27 A. Of course they are costs and costs are a
28 very real part of our freight rate naturally.

29 Q. All right. Those are costs but let us
30 assume that this 15¢ a ton mile takes care of all your



1
2 costs and it had a ratio of rate to costs of, say,
3 400% -- any amount you like. All I am troubled about
4 is whether you stop with these two tests of yours?

5 A. Where do I stop?

6 Q. Yes, where is the limit that you place
7 upon yourself?

8 A. As to reasonableness?

9 Q. Yes, as to the -- as I understand, Mr.
10 Edsforth, you have two principle guides to use with
11 respect to the justification of a rate. Let us take
12 a rate which is not particularly low, it is rather
13 in the high range and you say there is nothing in fact
14 wrong with that rate because it moves traffic, it causes
15 the free flow of traffic and it is maximizing the net
16 revenue and if it does those it meets all the criticisms.

17 A. I have not said that. I have said there
18 are many of these things that you consider and I
19 separated them out. They are not just these two tests.
20 As I say, for one thing, it has to be tested against
21 its proper place in the freight rate structure in
22 comparison with other rates, the kind of goods you are
23 handling, the value, the loadability.

24 Q. Well, those were costs and there again
25 is one -- you regard that as sort of a restriction
26 upon you in justifying the reasonableness of a rate?

27 A. I do not suppose you can look upon it
28 as anything of a restriction, it is another thing you
29 look at.

30 Q. I am trying to find out what holds you



1
2 down and at the moment I put it to you that if I
3 suggest to you a rate which returns you 15¢ a ton mile,
4 you would say so long as that rate kept the traffic
5 moving and it is maximizing the net revenue then it is
6 a reasonable rate.

7 A. And you would have to look at the other
8 considerations too, the kind of traffic it was, its
9 value, loadability. I still come back to that, you
10 cannot look at 15¢ a ton mile and say that is that,
11 you have to look at other things too.

12 Q. Now, page 18152, you accuse Dr. Roberts
13 of establishing a flat maximum and I will read:

14 "Well, in the first place it would establish
15 a flat maximum which would not have any
16 regard for the different characteristics of
17 the commodities handled and their ability
18 to move freely at different rate levels."

19 A. Yes, that is what I understood he
20 proposed -- am I wrong?

21 Q. But surely the things you have mentioned
22 there, the different characteristics and their ability
23 to move are the determinents of the cost of
24 transportation.

25 A. Of the cost?

26 Q. Yes.

27 A. No, they are not necessarily at all.
28 No, they are not because, as I say, there is loadability,
29 whether it is perishable or fragile, the nature, the
30 type of equipment and the value of the goods.



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Q. All right, other than value.

A. Do not leave out value.

Q. I probably did not read enough because there is another paragraph which follows what I read and that reads:

"Included in such characteristics would be the loadability of the traffic, perishable or fragile nature of the goods, the type of equipment required for handling, and the value of the goods themselves."

A. That is right -- "in other words, the factors that enter into determining the classification ratings."

Q. Now, those are the things -- put value aside, of course, but those things are determinants of cost.

A. Yes, they are determinants of cost except the value.

Q. And, therefore, when you in the upper paragraph which I read and just referring to the phrase "different characteristics" then you list those different characteristics in the next paragraph, do you not?

A. Yes, including the value of goods.

Q. So, because of that you are accusing Dr. Roberts of having established a flat maximum which would not have regard to those characteristics and I put it to you -- always putting aside value -- I am putting it to you that those things which you have



1
2 listed are the determinents of the cost of transportation
3 and they would be explicitly recognized by Dr. Roberts'
4 formula.

5 A. You say "putting aside value" and I
6 will not do that.

7 Q. I say other than value these things are
8 all explicitly recognized in the formula which Dr.
9 Roberts proposes.

10 A. In the aggregate but not as to the
11 individual commodity. As I understand Dr. Roberts
12 proposal it would be a flat maximum for all traffic
13 for each distance haul, now, if that is so and in the
14 aggregate it gave consideration to those characteristics
15 but not as to the individual kinds of traffic.

16 Q. All I say to you is that Dr. Roberts
17 is basing his findings on costs, fully variable costs
18 plus some percentage, 178 or whatever it may be
19 determined to be proper, that he is necessarily taking
20 into account these characteristics that you list on
21 page 18152.

22 A. Only in the aggregate and not, again
23 I must repeat it, as to the different kinds of traffic.

24 Q. . Well, I do not want to get back into
25 an exploration or analysis in detail of what Dr. Roberts
26 proposed. Surely he is proposing that variable costs
27 before you set a maximum you determine variable costs
28 of the traffic for which you are setting a maximum.

29 A. Well, I do not understand that. I
30 understood him to be stating a variable cost of



1
2 handling all traffic. I do not understand he was
3 stating a maximum based on each kind of traffic --
4 possibly he was.

5 Q. Well, the loadability of traffic is
6 a characteristic.

7 A. And it varies considerably.

8 Q. All right, but there is loadability
9 for all traffic and all traffic is either perishable
10 or fragile or not.

11 A. Yes. This ceiling of Dr. Roberts, does
12 it vary with the amount of traffic, that is what I
13 would like to know because I still do not understand
14 it.

15 Q. Well, I think we have to stop and take
16 a look at what he had to say about it.

17 A. If I have misinterpreted him I am
18 sorry but that is the way I read it. He talks about
19 a uniform ratio on page 11 of his submission.

20 Q. He says on page 4:

21 "Since different services are not homogeneous
22 ... by unit charges per unit of output but
23 is eliminated by a unit relationship between
24 rates and prices and direct costs over a
25 unit percentage mark-up?"

26 A. Yes, he says that but then when he gets
27 to his proposal what does he suggest? If you will look
28 at page 4 he says:

29 "The foregoing considerations strongly
30 suggest that with rates uniformly established



1
2 at a ratio of 178 ---"

3 178, I take it, was an average of, all his
4 costs of all traffic as an index.

5 Q. You are really putting to me whether or
6 not Dr. Roberts, when he is suggesting that the maximum
7 is fixed at so much percentage of costs, whether or not
8 he is taking into account these factors of loadability
9 and the perishable nature of the goods and so on. I
10 put it to you that he is and I put it to you that they
11 would be because they are determinents of costs of
12 transportation and they would be explicitly recognized
13 since the maximum would be determined by a standard
14 percentage relationship to out-of-pocket costs which
15 would vary widely.

16 MR. SINCLAIR: I do not think the witness
17 has said that at all, with respect.

18 MR. FRAWLEY: I am putting it to you that
19 is what Dr. Roberts said and we are now discussing
20 what Dr. Roberts said about how his maximum should
21 apply to costs.
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2 MR. SINCLAIR: I think, with all due respect,
3 that the witness has made it clear, and he has asked
4 you if he has misunderstood by your saying that Dr.
5 Roberts' testimony was based on all traffic, and then
6 taking a ratio and applying it to traffic which may have
7 varying characteristics, but the ratio basis is based
8 on an averaging of all traffic. That is what the
9 witness is saying. The mark-up is the same whether
10 it is the mark-up on medical instruments or whether
11 it is on sand and gravel. So that he is not suggesting
12 to you, with respect, that he is saying Dr. Roberts
13 was going to have the same rate on all commodities.
14 It is the mark-up -- the ratio. It is based on a ratio
15 of averaging of costs variable with the effect on the
16 ratio over the variable average for all.

17 MR. FRAWLEY: Quite so.

18 Q. I put it to you, Mr. Edsforth, that Dr.
19 Roberts when he is talking about a maximum over cost
20 he is recognizing these cost characteristics because,
21 I put it to you, the first maximum would be determined
22 by a standard percentage relationship to out of pocket
23 costs?

24 A. On each commodity?

25 Q. A standard percentage relationship to
26 out-of-pocket costs which would themselves vary widely?

27 A. I see. So, he would have a different
28 maximum for each commodity or each group of commodities,
29 and for each particular variation in the route, but
30 still his maximum would be based on some kind of ratio



1
2 determined from the average of all costs. So, there
3 you are kind of getting a mixture.

4 Q. I simply challenge your criticism when
5 you say he would establish an overall maximum that
6 would ignore commodity characteristics.

7 A. And I say he has because he fixes his
8 ratio on the aggregate of all traffic which takes in
9 different characteristics.

10 Q. I put it to you his maximum would be
11 determined by a standard percentage relationship to
12 out-of-pocket costs which would, in and of themselves,
13 differ or vary widely?

14 MR. SINCLAIR: We are at cross purposes,
15 with all due respect. We have been through it four
16 times, and the witness says he agrees with that, but
17 he is saying to Mr. Frawley that what he is criticizing
18 on page 18152 and in his answers to my learned friend,
19 that he is criticizing the application of the ratio
20 based on all traffic. Mr. Frawley, that does not mean
21 he is criticizing Dr. Roberts to say he is going to
22 charge the same rate on medical instruments as on sand,
23 but his ratio in respect of variable costs on sand is
24 the same as the ratio he applies to fix the maximum
25 on medical instruments.

26 MR. FRAWLEY: Q. You have included value as
27 one of the characteristics which you say Dr. Roberts
28 has taken into account, and in that I agree with you
29 completely. I put it to you that you are introducing
30 a factor there which is a measure of demand and not a



1
2 measure of cost?

3 A. I think it is a measure of reasonableness
4 of a rate too, Mr. Frawley -- the value of the goods and
5 the rate that applies on those goods. I think, certainly,
6 there is a test there of reasonableness.

7 Q. Well, the value of what you move and the
8 reason that you charge more on boots and shoes than on
9 sand and gravel is because there is a measure of demand
10 there that permits the boots and shoes to pay a higher
11 freight rate proportionately?

12 A. Yes, I think that is essentially so,
13 Mr. Frawley. It is the ability of the goods to carry
14 transportation charges or to move freely at certain
15 rate levels.

16 Q. But the fact it is boots and shoes
17 instead of some lower commodity is not a measure of
18 cost; it is a measure of demand? That is all I am
19 putting to you?

20 A. Well, there is some element of difference
21 in cost in claims liability and so forth, but certainly
22 the value of the goods is something that relates its
23 ability to bear transportation charges or to pay
24 transportation charges.

25 Q. You criticize the Roberts' formula
26 because you do not seem to think it would fit into
27 your international traffic?

28 A. I do not see how it would.

29 Q. Now, you broke up the international
30 traffic into three categories: One of them was the



1
2 overhead traffic?

3 A. Yes, that really is not -- I really did
4 not break international traffic up into three. I said
5 there were three categories that move at rates either
6 related to or the same as United States rates.

7 Q. Yes.

8 A. That is the international, the overhead
9 -- that is, from the United States to the United States
10 through Canada -- and traffic moving within Canada at
11 related rates.

12 Q. Now, do you think the overhead traffic
13 actually enters into this discussion at all?

14 A. Well, it is part of our costs. We do
15 not handle it for nothing. It costs us money.

16 Q. That is true.

17 A. There is tons and ton miles.

18 Q. But we are not seeking to prescribe a
19 maximum level of rates for United States shippers or
20 receivers?

21 A. No, of course not, and what I am saying
22 here is that in order to get your costs determined as
23 you would have to do under Dr. Roberts' formula, you
24 have to eliminate these things that would not be
25 subject to a Canadian maximum increase.

26 Q. Well, apart from whether they are
27 subject to that or not, surely the costs, if you think
28 that overhead traffic should be taken into it, it
29 should be possible to determine the costs of the
30 overhead traffic?



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2 A. I do not say it should be taken into
3 account. I think it should not. I say none of this
4 can be taken into account because it is not traffic
5 moving at Canadian rates and, as I understood Dr.
6 Roberts, he was dealing with rates that had application
7 on traffic in Canada. So, you have to eliminate these
8 things.-- costs, ton miles and so forth, and all this
9 traffic I have mentioned at the top of page 18513.

10 Q. Well, does not the rate you charge, your
11 proportion of an international rate, does it not depend
12 upon what it costs you to move that traffic in Canada?

13 A. You mean the rate level?

14 Q. Yes.

15 A. Well, of course, if it is between the
16 two points in the United States the rate level is
17 determined by the United States lines themselves, and
18 so far as we are concerned our proportion of it is based
19 on our divisions. Naturally, if we won't make any
20 money on handling the traffic we do not put the rates
21 in or do not put the routes in.

22 Q. That is true. The rates you quote for
23 your overhead traffic do not apply to Canadian shippers
24 at all?

25 A. That is so.

26 Q. And all your are suggesting is that you
27 would not be able to take in cost of that movement?

28 A. You would have to eliminate that.

29 Q. Suppose you eliminated it entirely, both
30 to cost and rates: if the rates are eliminated, they are



1
2 of no concern to anybody?

3 A. Rates and costs and tonnage on traffic
4 -- you would have to take it all out, and the same with
5 international too.

6 Q. Well, no; as far as the international
7 rates are concerned, you do charge the Canadian
8 receiver of goods coming into Canada on international
9 rates -- the receiver pays a rate part of which goes
10 to the American road and part to the Canadian road?

11 A. Yes.

12 Q. What the Canadian road gets -- the rate
13 which it charges or collects is related to the cost
14 of moving it, of course?

15 A. Yes, that is true, but I did not
16 understand Dr. Roberts' proposal attempted to set
17 maximums on those rates.

18 Q. Well, I am wondering if the international
19 rates are of any great concern to Dr. Roberts' maximum
20 theory at all?

21 A. I do not know. I do not think his
22 maximum theory would apply, and therefore you would
23 have to take out the tons and the traffic costs of
24 that traffic.

25 Q. But the fact that you are not able to
26 assess and to impose rate increases authorized by the
27 Board of Transport Commissioners does not alter the
28 fact that you do expend labour and material for the
29 carriage of that traffic -- within Canada, of course?

30 A. Well, of course, we do assess rates



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2 which are increased by increases authorized by the
3 Board of Transport Commissioners on international
4 traffic; certainly we do. The Board gives authority
5 for every increase that is made, and certainly that
6 traffic then bears increases that take care of the
7 additional costs.

8 Q. Yes, quite so, but what bothered me was
9 the fact that you said that because we cannot assess
10 Canadian increases makes it impossible to apply Dr.
11 Roberts maximum to international traffic.

12 A. Well, no; I did not say that. I said
13 the only thing was that it would certainly impose a
14 tremendous difficulty in arriving at his formula
15 because you would have to remove all of this traffic
16 from your consideration.

17 MR. SINCLAIR: Dr. Roberts, I think it is
18 clear -- unless you are saying it is not clear, Mr.
19 Frawley -- was making his calculation on the average
20 cost of handling all traffic in Canada. If that is not
21 what he said we would like to be corrected. That is
22 as we understood it.

23 MR. FRAWLEY: I do not think he said anything
24 other than that.

25 MR. SINCLAIR: Well, that is the difficulty,
26 because "all" the traffic in Canada includes international
27 traffic to approximately one-quarter, according to Mr.
28 Edsforth's evidence.

29 MR. FRAWLEY: Q. Mr. Edsforth, going to page
30 18156, you say there that if you use Dr. Roberts' tests



1
2 to determine maximum rates, then in some cases rates
3 lower than the maximum so established would have to be
4 applied, and in that event the theoretical maximum
5 revenue could not be obtained?

6 A. Yes; I think Dr. Roberts suggested that
7 himself.

8 Q. I put it to you, Mr. Edsforth, and I
9 ask you: Why should you be able to realize the
10 theoretical maximum on all traffic?

11 A. Well, of course, Mr. Frawley, I may have
12 got a completely wrong impression of Dr. Roberts'
13 formula, but I thought his maximum was based in relation
14 to total costs.

15 Q. Would you be good enough to look at the
16 table in Dr. Roberts' memorandum at page 7.

17 A. Yes.

18 Q. And if you will look at line 5, just
19 as an example, it comes out at an average rate, out-
20 of-pocket costs ratio, of 178?

21 A. Yes.

22 Q. Now, I assume you understand very well
23 that in this illustration the maximum ratio of 178% of
24 out-of-pocket costs would apply not to 100% of the
25 present volume, but to only 50% of the present volume?

26 A. Yes. He made a calculation there as to
27 what would happen if you put in a ceiling of maximum
28 rates based on total costs, and then he assumed on that
29 rate level a good proportion of the traffic just would
30 not move. We would have to let it go. And so, he makes



1
2 a calculation for that designed to compensate for the
3 traffic that is lost. That is my understanding.

4 Q. I put it to you all he is saying in
5 this illustration is that 100% of the costs including
6 overhead costs would be covered at a revenue cost ratio
7 of 178 even with the traffic reduced by 50%?

8 A. Yes, that is assuming that the traffic
9 had gone -- we lost the traffic; and, of course, the
10 costs associated with handling the traffic.

11 Q. That is right.

12 A. But then, I think he goes on to say that
13 he does not think you would do that, that there should
14 be some adjustment under the ceiling to take care of
15 traffic that will not bear maximum costs.

16 Q. But I put it to you that if all the
17 traffic moved at the 178 ratio level and the volume
18 remained at 100%, that very large profits indeed would
19 result?

20 A. That might or might not be, but that is
21 a very large assumption because that just would not
22 happen.

23 Q. But the reason I say that is when you
24 say you would not be able to charge up to his maximum
25 on all the traffic, that is what I understand to be
26 the criticism that you are making at page 18156?

27 A. No. What I am saying, I think, was to
28 the extent you could not charge the maximum on certain
29 types of traffic because it would not move at those
30 rates; then, of course, you lose the difference between



1
2 his maximum and whatever contribution that traffic
3 was making.

4 Q. Right. Well, as I understand it, in
5 any event, you would not contend and could not intend
6 and are not contending that you would expect to move
7 100% of the volume using Dr. Roberts' illustration at
8 that 178 ratio?

9 A. Oh, no; I know you could not do it.

10 THE CHAIRMAN: Well, we will now adjourn
11 until Wednesday morning at 10 o'clock in the Chateau
12 Laurier.

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15 --- Adjournment ---
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Hon C.P. McTaggart

ROYAL COMMISSION

ON

TRANSPORTATION

HEARINGS

HELD AT

OTTAWA

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ROYAL COMMISSION ON TRANSPORTATION

Proceedings of hearings held
in the Convention Hall, Chateau
Laurier, Ottawa, Ontario, on
the 16th day of November, 1960.

COMMISSION

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Mr. A. H. Balch	Member
Mr. R. Gobeil	Member
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Ottawa, Ontario,
Wednesday,
November 16, 1960.

--- On commencing at 10:00 a.m.

THE CHAIRMAN: Order, please.

CROSS-EXAMINATION BY MR. FRAWLEY (resumed)

Q. Mr. Edsforth, would you be good enough to turn to page 18158 of your direct evidence. It is in volume 109.

A. Yes, I have that here, Mr. Frawley.

Q. And there you will notice that Mr. Sinclair asked you, at the top of page 18158:

"Q. And in your view would it be necessary to make substantial increases in low rated long haul traffic as a result of the loss of contribution from these higher rated traffics?

"A. It may have to be either that or the entire ceiling would have to be raised -- the entire maximum.

"Q. Yes?

"A. One or the other."

A. Yes.

Q. Now, I put it to you, Mr. Edsforth, why should you want to raise the low rates; those which are not uneconomically low?



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2 And may I say there in parenthesis that you contend that
3 none of them are uneconomically low.

4 A. With one exception.

5 Q. Then, why should you increase those rates
6 because, I suggest to you, if you increase those rates
7 you are almost bound to lose revenues?

8 A. Well, Mr. Frawley, we were discussing here,
9 I think, the question of getting our revenue under this
10 formula of maximum rates or ceiling rates suggested by
11 Dr. Roberts, and I said that to the extent that the
12 maximum reduced the contribution from traffic whose rates
13 were higher than the maximum, we would have to make up
14 that difference some way.

15 Q. Yes?

16 A. Now, there would be two ways of doing it;
17 one would be by increasing the rates that were lower than
18 the maximum, to increase the contribution there if you
19 could; or, the other would be by increasing the ceiling
20 itself.

21 Q. Yes. Now, I think I understand just what
22 you say. You would not willingly and as a first step
23 want to increase the low rates?

24 A. Mr. Frawley, it would depend, of course,
25 on the low rated long haul traffic. We would increase
26 them if we could, to get a better contribution, if we
27 felt we could get the traffic and still get a higher
28 rate.

29 Q. But it would be purely an alternative,
30 as you say in your answer: "We would either increase



1
2 the low rates, or we would have to increase the
3 ceiling".

4 A. And it might have to be both, Mr. Frawley.
5 It is hard to say.

6 Q. But, ordinarily, I suppose it is not too
7 much to suggest that if you are carrying traffic at
8 rates which are not economically low and are moving the
9 traffic and giving you some return over variable that
10 you regard those rates -- that you are satisfied with
11 those rates, and I suggest you would not ordinarily
12 wish to increase those rates?

13 A. We might not, unless we felt that we
14 could increase those rates and still retain the traffic
15 volume.

16 Q. Well, I put it to you, Mr. Edsforth, that
17 if you are going to think in those terms, then probably
18 the law today requires you to keep those rates up as
19 high as you can consistent with the force of the
20 competition. That is true; is it not?

21 A. Well, how do you say the law compels --?

22 Q. Section 334 I am thinking of.

23 A. You are only talking about competitive
24 rates now?

25 Q. I am talking competitive rates, yes,
26 because they are ordinarily speaking your low rates?

27 A. Oh, no, not necessarily at all. Oh,
28 no, because you have to look at the traffic that is
29 involved. Some of our competitive rates are what you
30 might term quite high rates.



1
2 Q. I know some of them are, but if you are
3 looking around for a low rate, I think I would not be
4 wrong if I went and looked and some of your competitive
5 rates or agreed charges?

6 A. You might look at them, but also you
7 should look at a good many of our normal rates that are
8 put in, of course, on low value traffic to enable it to
9 move.

10 Q. You have some rates that are low because
11 you want to move the traffic -- like coal and sand and
12 gravel?

13 A. And sugar beets; things like that.

14 Q. And you know if you started lifting those
15 rates you would have affected, I think you could say,
16 the public interest, because those commodities then
17 would not move?

18 A. That might well happen. We would have
19 to see.

20 Q. As to the other low rates which are low
21 because of the force of truck or water competition, then
22 you, I suggest, would not want to particularly increase
23 those rates unless there was a pretty driving force
24 to compel you to do that?

25 A. Unless the force of competition enabled
26 you to do it, which you would do in any case.

27 Q. Now, let us turn to the ceiling rates
28 which you say would be a contemplated alternative?

29 A. Yes.

30 Q. I put it to you, Mr. Edsforth, that



1
2 any idea of that that you may have in your mind comes
3 from the theory that you are entitled to some given
4 amount of gross revenue or net revenue?

5 A. Well, I do not know. You are entitled
6 to enough revenue to keep your plant in proper operation,
7 that is sure.

8 Q. I say, Mr. Edsforth, that you are only
9 entitled to what you have just stated: enough revenue
10 to keep the plant going?

11 A. In proper operation, I said.

12 Q. You are only entitled to what you can
13 get under effective competition, on the one hand, and
14 under reasonable rates when competition is not fully
15 effective. You do not disagree with that?

16 A. You are entitled to have rates on your
17 aggregate of all traffic which will give you a proper
18 return on your investment in the property.

19 Q. Now, you are not entitled to any particular
20 return on your investment unless you can get that amount
21 of dollars through rates which you have to charge under
22 effective competition, and that is the competitive
23 rate structure, and when you leave that under reasonable
24 rates when competition is not fully effective?

25 A. Well, Mr. Frawley, I do not know that I
26 quite follow your question there.

27 Q. I put it to you, Mr. Edsforth, that as
28 far as the competitive rate structure is concerned you
29 are not entitled to anything more than you can get under
30 the competition and what it forces you to fix your rates



1
2 at?

3 A. It is not a question of what you are
4 entitled to get to keep the traffic. It is what you
5 can get and meet the traffic.

6 Q. You are entitled to what you can get
7 under effective competition; right?

8 A. Yes.

9 Q. And with regard to the rates -- other
10 than those competitive rates, with regard to the rates
11 which you charge where competition is not fully
12 effective, I say you can only get what reasonable rates
13 will bring you in?

14 A. That is, of course, reasonable rates
15 should give us our proper return on our investment.

16 Q. So, then, we come down again to the
17 meaning of the word and the full effect to be given to
18 the word "reasonable"?

19 A. Yes.

20 Q. I say it comes down to the effect to be
21 given to the word "reasonable".

22 A. Yes.

23 Q. And there is the issue, perhaps if I
24 may say so, between you and me, Mr. Edsforth, because
25 you feel a reasonable rate, or a rate does not cease
26 to be reasonable and will always be reasonable if it
27 is keeping the traffic flowing freely and maximizing
28 your net revenue?

29 A. And meeting those other tests that I
30 mentioned on Monday.



1
2 Q. Well, they are mentioned there, Mr.
3 Edsforth, and I certainly do not choose to go back over
4 everything you have said.

5 I put it to you, in essence, you take the
6 position that the real criteria to be applied to whether
7 a rate is reasonable or not is to get answers to these
8 questions: is it keeping the traffic moving freely;
9 and is it maximizing our net revenue?

10 A. Those are two of the tests all right,
11 Mr. Frawley. There are others.

12 Q. So much for that. I think perhaps we
13 have explored that sufficiently. I would like you to
14 turn with me to page 18167 where you begin to discuss
15 the submission made with respect to some modification
16 of the horizontal percentage increase method of putting
17 into effect authorized increases granted by the Board.
18 The methods suggested by Dr. Little from the University
19 of Washington in Seattle?

20 A. Yes.

21 Q. Now, I put it to you, generally
22 speaking, that isn't Dr. Little's formula merely a case
23 of seeking to truly ascertain the cost related to
24 length of haul, which is commonly called line haul costs
25 and the costs unrelated to line length of haul, commonly
26 called terminal costs?

27 A. That was what Dr. Little said it was.

28 Q. Well, I think it is fair to say that that
29 was the objective that he had in mind in working out what
30 he calls his Cost related formula?



1
2 A. Well, he attempted to determine a
3 percentage increase in rates related to what he assumed
4 to be increase in the terminal costs and the line haul
5 costs.

6 Q. Yes. Would it not be practical, Mr.
7 Edsforth, to list all of the terminal costs which you
8 say are terminal costs which vary with distance --
9 because, I am right in saying that you say there are
10 some terminal costs which vary with distance?

11 A. Well, they are intermediate terminal
12 costs, and of course as your haul increases then you
13 incur more intermediate terminal costs.

14 Q. I put it to you that it should be quite
15 possible and practical to list those terminal costs,
16 to segregate some of those terminal costs which you
17 regard as intermediate terminal costs, or terminal
18 costs which vary with distance, and treat those as line
19 haul costs?

20 A. It may be, Mr. Frawley. I am not in a
21 position to say. I certainly am not a cost expert,
22 by any means. I do not know how practical it would be.

23 Q. In that regard, Mr. Edsforth, I want
24 you to look at what the Interstate Commerce Commission
25 has done, and I will give you the original of Statement
26 5-56 called "Rail Carload Cost Scales by Territory as
27 of January 1, 1956, based on 1954 operations".

28 I would ask you to be good enough to look
29 at page 100, and I have a copy, Mr. Edsforth. I have
30 very few copies of this, Mr. Chairman, but further copies



1
2 could be made available.

3 MR. SINCLAIR: Well, after all, Mr. Chairman,
4 members of the Commission, my friend of course is
5 referring to the ICC publication, and they are there.
6 But is he putting the whole document in?

7 MR. FRAWLEY: No, I am not. After all, I
8 suppose I could simply send down to Washington and buy
9 25 or 50 copies of this 5-56, but I was not proposing
10 to do that. However, if there is any question that I
11 should do so I will certainly do that.

12 MR. SINCLAIR: I am not suggesting that. What
13 I am suggesting -- I do not know why you said, "I have
14 not got copies".

15 MR. FRAWLEY: You do not know why I said
16 I have not got copies? I said that because, of course,
17 I like to be truthful, and that happens to be the fact.

18 MR. SINCLAIR: What difference does it make,
19 if you are not going to file them as exhibits?

20 MR. FRAWLEY: No, I am just going to discuss
21 it with Mr. Edsforth. I am going to discuss this page
22 100 of the ICC study 5-56.

23 Q. Mr. Edsforth, I am going to call your
24 attention to the fact there that there are switching
25 costs -- if you will look at the column, it is entitled
26 "Costs Related to length of Haul", line 10.

27 A. Under column No. 3?

28 Q. Column No. 3, Mr. Edsforth.

29 A. I see.

30 Q. And there you will find that you have



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2 interchange switching treated as a cost related to
3 length of haul. That is line 10.

4 Line 11: Inter-train plus Intra-train
5 switching is also treated as a cost related to length
6 of haul.

7 A. Yes.

8 Q. And to complete the reference that I am
9 giving you, you will have to look then -- probably the
10 record should show the footnote, Mr. Edsforth.

11 The two footnotes concerned are footnotes 5
12 and 6. I am reading from page 102 of this document
13 5-56. The interchange switching to which I have just
14 called your attention, which is regarded in this study
15 as a cost related to length of haul -- "The interchange
16 switching relates to the switching work performed in
17 connection with the interchange of carload traffic
18 between carriers".

19 And the next item to which I call your attention
20 as a switching charge that was regarded as a cost related
21 to length of haul, and that is footnote 6. On the statement
22 itself at page 100, it is called "Inter-train plus
23 Intra-train switching", and the footnote is: "Inter-train
24 and intra-train switching relate to the switching
25 performed in making up and breaking up trains at
26 intermediate train yards on the carrier's own lines".

27 All I am saying about that, Mr. Edsforth, is
28 that I do not regard it as anything insurmountable to
29 put into their proper category -- when the people who
30 would be doing the costing which is basic to Dr. Little's



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2 proposal, that they could put in its proper category
3 the costs which you say are intermediate and that have
4 some of the characteristics of a line haul?

5 MR. SINCLAIR: Well, Mr. Chairman, I must
6 object to the question. Our position quite clearly is
7 this: that we recognize that the Interstate Commerce
8 Commission have done a great deal of statistical work.
9 In our respectful submission, much of it is worthless.
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2 It has grown like Topsy. Nothing could be clearer
3 than this that under any circumstances this kind of
4 statistical work is at all meaningful by applying
5 averages and doing all the things that have been done
6 in the United States and we object to it. We have ob-
7 jected to it ever since it has been raised.

8 THE CHAIRMAN: That is your argument?

9 COMMISSIONER MANN: Mr. Sinclair, it is your
10 opinion that this material is meaningless and worthless
11 because of the lack of homogeneity of operation of
12 American carriers?

13 MR. SINCLAIR: No. That, of course, is one
14 reason but you cannot apply the United States statistical
15 averages and lack of homogeneity to the Canadian situation.
16 That is one reason. However, there is another one
17 besides which is quite obvious and that is by trying
18 to take what is an average length of haul to arrive at
19 a switching study you can get two movements. For
20 instance, a movement of one thousand miles which will
21 have quite different intermediate terminal character-
22 istics by the route they take. Then, again, you
23 can get marked differences by the commodity you take
24 because of the very nature of the thing, perishable, for
25 instance, versus non-perishable; livestock versus news-
26 print; hump traffic against non-hump traffic and stuff
27 moving in regular flow against sporadic movements;
28 traffic moving on different types of bills. All these
29 things affect it and so what has happened, in our respect-
30 ful submission, is that because of the use, an attempt to



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2 use broad aspects to give somebody what was, thought to
3 be a bench mark, what happened by doing that is they
4 confounded a lot of problems. I tried to take a
5 broad knife and cut through that and we say our position
6 is that you cannot do it.

7 COMMISSIONER MANN: Is that the position of
8 the American railroads as well?

9 MR. SINCLAIR: The position of the American
10 railroads differs in quite some respects and they go
11 all the way for the people in some of the railroads.--
12 this was indicated by Mr. Williams -- who really have
13 not done very much work in this regard to people who
14 have done substantial. I think Commissioner Williams
15 himself indicated that the Canadian railroads were
16 likely in the forefront or close to the forefront in
17 this regard.

18 For instance, let me give you an example:
19 people look at the Southern Pacific Railroad as being
20 far in advance. Now, I can say this to you because it
21 is a fact that the Southern Pacific Railroad are not
22 nearly as advanced as we are in taking off and using
23 some statistical techniques. Their data is not as
24 far advanced as ours. This week, for instance, the
25 chief data men from the Southern Pacific are with the
26 Canadian Pacific to try to gain from the experience
27 that we have had in data processing over the past five
28 years. They thought and published papers saying how
29 easy it is but now when they have got into it they
30 realize it is not half as easy as they thought it was.



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2 In view of the fact of where we are they have come to
3 discuss it with us. Now, you can take railroads in
4 the United States, a very large railroad and this could
5 be ascertained by the commission, in the eastern United
6 States who, having nothing better and not, with all
7 due respect, using properly the material they have,
8 have followed this blindly. Until within the last few
9 months they had never even set up organizations to deal
10 with these matters. The gamut of the United States
11 railroads -- I am not talking about small and large
12 roads, I am talking of the large roads, they go the
13 whole gamut and even the ones that are most advanced,
14 like the Southern Pacific, have their problems.

15 COMMISSIONER MANN: Thank you very much.

16 MR. FRAWLEY: Mr. Commissioner Mann,
17 if I may I would like to be very clear on the record
18 that we will -- perhaps I should say "I" will, at the
19 appropriate time, respectfully urge the Commission to
20 direct and declare that we should have costing infor-
21 mation flowing into the offices of the Board of Transport
22 Commissioners, this kind of costing information, steady
23 costing information. I am aware of Mr. Sinclair's
24 attitude because he is on record saying what the
25 bureaucracy line will be in the United States.

26 MR. SINCLAIR: I will say it again.

27 MR. FRAWLEY: As far as I am concerned I am
28 not asking anybody to accept anything blindly, even if
29 the Pennsylvania Railroad is doing it blindly let us
30 not do it blindly. I cannot do any more than bring



1
2 to the attention of this Commission what the ICC is
3 doing.

4 THE CHAIRMAN: You are using this evidence
5 in support of your argument, good or bad?

6 MR. FRAWLEY: That is right. I say even if
7 I do nothing else than to get this Commission to order
8 this kind of costing information I am not suggesting
9 there is anything insurmountable, that there is a dif-
10 ferent treatment for pulpwood and for livestock; they
11 must use pulpwood and livestock in the United States
12 too.

13 THE CHAIRMAN: Go ahead.

14 MR. FRAWLEY: Before you leave page 100 I
15 want to call your attention to two more lines, lines
16 19 and 20, and you will see what they have worked out
17 as the result of the segregation which is integrated
18 in the two columns, columns 1 and 3. You will find
19 the comparison that the costs unrelated to the length
20 of haul are, at 50 miles $84\frac{1}{2}$ per cent; 100 miles 73.2
21 per cent; 300 miles 47.7 per cent, and finally at 1000
22 miles 21.5 per cent. Then line 20, the comparison
23 with the cost related to length of haul to the total
24 costs; 50 miles $15\frac{1}{2}$ per cent; 100 miles 26.8 per cent;
25 300 miles 52.3 per cent, and finally at 1000 miles
26 $78\frac{1}{2}$ per cent.

27 MR. SINCLAIR: Now, Mr. Chairman, I think I
28 must say this: when Dr. Little was here you asked him
29 whether this basis was ever put before the ICC and
30 his answer was no. That may not be word for word but



1
2 that was the purport of it, you will recall.

3 MR. FRAWLEY: Mr. Sinclair, so you should be
4 clear, this is what you have in your hand.

5 MR. SINCLAIR: That is what I am getting to.
6 It is the basis of trying to distinguish increased cost
7 between line haul and terminal for the basis of a
8 general revenue case. On the suggestions advanced
9 and prepared in various ways by the ICC he answered
10 "No" to you. We were a little surprised about that
11 but it is quite right that he did not advance it in
12 exactly the same way. However, he did advance it
13 on the basis of graduated percentage increase and
14 the ICC rejected that basis.

15 Now, I have asked Mr. Edsforth to turn up
16 the views of the ICC and I am saying to Mr. Frawley
17 that you can perhaps use this in a different way and
18 come up with a similar result but even the people who
19 put it out recognize the difficulty.

20 THE CHAIRMAN: Is this evidence or a finding?

21 MR. FRAWLEY: It sounds like re-examination.
22 That is the first objection to what my friend is doing
23 at the moment.

24 THE CHAIRMAN: No, I mean the document.

25 MR. SINCLAIR: What I am saying is I object
26 to the use of this material ---

27 MR. FRAWLEY: You cannot object to me
28 placing on the record ---

29 MR. SINCLAIR: --- as being irrelevant to
30 the determination in Canada of a basis for determining



1
2 a method of general revenue.

3 THE CHAIRMAN: Well, we have noted your objec-
4 tion.

5 MR. FRAWLEY: Q. Well, now, you were obser-
6 ving what was read on page 100 as I was reading it into
7 the record?

8 A. I saw the figures.

9 Q. Now, would you turn to page 18169?

10 A. Yes.

11 Q. At 18169 you are saying, at the bottom of
12 the page, that:

13 "The shipper or the agent who was billing
14 the shipment would have to know the
15 distance the traffic was going to move."

16 I think, Mr. Edsforth, that if you will look at what
17 Dr. Little said, and I am referring to his memorandum
18 on page 13 ---

19 A. Yes.

20 Q. He simply puts it there at the bottom of
21 page 13 about his determining the Class 100 rate between
22 the point of the proposed movement and he states,
23 for instance, that it was \$2.71. Then you look at
24 his Table 4 which appears at page 31 of his memorandum
25 and look down column 2 till you come to \$2.71 in the
26 current Class 100 rate column. Then he simply says
27 that you apply a 6 per cent increase to the current
28 rate applicable to the class or commodity rate of the
29 actual shipment as indicated in the existing tariffs?
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3 A. That is right, but he said that on the
4 assumption that the equalized class rate scale applied
5 for all distances throughout the country and, therefore,
6 would be representative of the various lengths of haul
7 involved but, of course, that is not the situation.
8 You would not get the result that Dr. Little seems to
9 be trying to achieve in every case by just looking at
10 Class 100 between the particular points you are trying
11 to check.

12 Q. I suppose you are referring to the
13 fact that the equalized class rate scale does not
14 apply to the territory east of Diamond or Levis?

15 A. No, it does not. As was brought out
16 on Monday the equalized class rate scale does not apply
17 for all distances in groups A to B. I would say
18 that Dr. Little's theory would not seem to fit with
19 his method of applying the rate increase in this
20 respect.

21 Q. You think it may be difficult to apply
22 it east of Diamond and Levis?

23 A. Well, of course, you could determine
24 what the first class rate was between any two points
25 and thereby find the percentage of increase but it
26 would not necessarily be related to the length of haul
27 and that is what I understand Dr. Little's formula
28 to be based upon.

29 Q. I suppose you say that by virtue of the
30 fact you ascertain a rate east of Montreal by applying
the Montreal rate plus an arbitrary?



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2 A. That is the way it is constructed
3 although it is published as one rate.

4 Q. Well, you think it may be difficult to
5 apply to the maritime territory?

6 A. I do not think it would be difficult
7 to apply it by looking at the first class rate. All
8 I say is it would not be doing what Dr. Little says his
9 formula does, applying his increase to the increased
10 costs of length of haul versus terminal.

11 Q. Of course, the horizontal percentage
12 increase method does not do any of that?

13 A. It does not pretend to do that. The
14 horizontal increase method is to spread the increase
15 over all of the traffic in relation to the rate
16 applicable, taking into consideration the factors
17 entering into the reasonableness of the rates them-
18 selves and which, of course, includes value of ser-
19 vice.

20 Q. Mr. Edsforth, the last increase that
21 you got of 17 per cent effective the 1st of December,
22 1958, was for the specific purpose of putting you
23 in funds to meet a wage award which had recently been
24 made against you?

25 A. That is right.

26 Q. And that was rather a large wage award?

27 A. I think it was.

28 Q. And those increased payrolls which you
29 had to put into effect increased your terminal costs?

30 A. I suppose they did.



1
2 Q. And your line costs?

3 A. Yes.

4 Q. Your freight handling costs?

5 A. Yes, everywhere where labour was a factor
6 in the cost.

7 Q. And your passenger costs?

8 A. Yes, I think so.

9 Q. All of your costs?

10 A. Yes.

11 Q. And what I have just said about the
12 increase which came into effect on the 1st of December,
13 1958, could be said of all postwar increases?

14 A. Well, wherever wage increases were in-
15 volved but, of course, there were other factors in-
16 volved; the cost of money and things like that.

17 Q. And you recovered those increased wage
18 costs to the extent that you did recover them by
19 applying the Board's authorized increase horizontally
20 and percentagewise to the whole freight rate structure?

21 A. That is so.

22 Q. And that method, I suggest, by its very
23 nature prevents you from giving any effect to the fact
24 that terminal costs have been increasing more rapidly
25 than have been line costs?

26 A. Of course I do not know that. It must
27 be that to some extent because certainly the rate is
28 predicated on the length of haul. There is the
29 taper in your rate structure not only on percentage
30



1
2 increase a horizontal percentage increase must have
3 these factors, not perhaps in the way Dr. Little has
4 it but it does take it in just the same. If you take
5 the 20 per cent rate increase and apply it to the class
6 rate scale, take Class 100 for certain distances, you
7 will find that your revenue per ton mile has the
8 same relationship after the increase as before it.

9 Q. That is because it is horizontal but it
10 does not prevent the long haul shipper from paying out
11 more dollars than the short haul shipper?

12 A. No, because he gets more work, he gets
13 more transportation. Obviously if you buy more groceries
14 you pay more money and that is about it.

15 Q. He gets more transportation and it makes
16 him progressively unable to, I suggest to you, meet the
17 market competition of the short haul shipper?

18 A. I do not know that that is so, no.

19 Q. The Turgeon Commission said that?

20 A. They made a finding to that effect but I
21 do not quite agree with that.

22 Q. I would like to call your attention to
23 something which appeared in The Railway Age, the July 4
24 issue of this year. I will just read this to you and I
25 will hand you a Thermofax copy. It is just a paragraph
26 or two but I will put it into the record:

27 "Even the increase in line-haul
28 costs is serious enough -- for an industry
29 subjected to such pervasive competition
30 as that the government is inflicting on



1
2 railroads, but it is the rising terminal
3 costs that are really lethal. Hardly
4 any problem confronting railroads is more
5 important than this one, because the
6 industry just can't live with this trend
7 of rising costs of terminal handling."

8 The chart below indicates and illustrates that paragraph.
9 That would seem to be, as the Railway Age points out,
10 speaking of the American experience, a pretty disturbing
11 situation?

12 A. Well, of course, subject to whatever weight
13 you can ascribe to the ICC cost method.

14 Q. Yes, subject to whatever weight, which
15 is not inconsiderable, and looking upon the ICC figures,
16 subject to what they mean, that would seem to be an
17 alarming trend?

18 A. Well, Railway Age, that is in the United
19 States.

20 Q. Yes, this is Railway Age and it is
21 a pretty good sort of publication, is it not? You
22 met under the guidance of one of the Railway Age people
23 not long ago, just the other day?

24 A. Yes, we had a round table conference and
25 discussion.

26 Q. It is recognized as a pretty respectable
27 transportation periodical?

28 A. It is and I do not say for a moment that
29 it is not. However, here they are talking of the
30 situation in the United States, the situation that confronts



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2 railroads there. They are talking about an ICC
3 cost formula -- all of those things.
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2 MR. SINCLAIR: Of course, Mr. Chairman, just
3 because a publication is a good publication does not
4 necessarily mean everything in it is correct. I have in
5 mind the last issue of Canadian Transportation which has
6 on its front page a picture of certain people, and there
7 are remarks in there that I am sure some people may agree
8 with and some may not.

9 THE CHAIRMAN: We have not seen it.

10 MR. SINCLAIR: Neither has Mr. Frawley, I
11 gather.

12 MR. FRAWLEY: Q. I put it to you, Mr. Edsforth,
13 that subject to what you say about what the rate of taper
14 does that your slavishly following this horizontal
15 percentage increase method does nothing at all to cure
16 the alarming trend Railway Age talks about in the way
17 terminal costs are increasing as against line haul costs.

18 A. I do not agree with you, Mr. Frawley.
19 You use the term "slavishly": we are not tied to it
20 slavishly at all. If we can find a better way of doing
21 it, that is certainly what we would want to do; but, we
22 have not been able to find one yet. There is nothing
23 slavish about it.

24 Q. Well, as a matter of fact, it is the
25 easiest thing in the world to apply -- that is, where
26 you can apply it. And that is what is wrong, of course.
27 However, this is not the time to be making general
28 observations. But, where you can apply it it is a very
29 simple way: you bring it out and overnight the increase
30 is on.



1
2 A. It is not all that simple. It has
3 problems.

4 Q. I suggest to you it is its simplicity
5 that recommends this method to you more than anything?

6 A. No, it is not; I cannot agree with you.

7 Q. You have never tried selective increases?

8 A. Oh yes, we did.

9 Q. I am not talking about hold-downs.

10 A. I am not either. I am talking about
11 selective increases. We tried them back in 1915 and
12 with pretty disastrous results.

13 Q. Well, that is another day -- another age.

14 A. It may be another day and another age,
15 but the point, of course, of Dr. Little's formula, no
16 matter how he does it, is that, after all, he has a
17 decending scale of increase -- a graded scale which
18 puts the larger increase on the short haul traffic, and
19 the Interstate Commerce Commission, when they were
20 considering a formula put forward by Dr. Little very
21 similar to this in ex parte 206, they found and decided
22 it could not be adopted because it was complicated for
23 one thing, yes, but one of their points was that it put
24 the highest increase on the shorter haul traffic where
25 competition was the most prevailing.

26 Q. That is right, and on the short haul
27 traffic, the full impact of the increase could not be
28 put on there?

29 A. In a lot of cases you would not be able
30 to hold it, and that would be much more so than with a



1
2 horizontal increase.

3 Q. But, Mr. Edsforth, if it cannot go on
4 the short haul traffic why do you not get some
5 assistance from the State to allow you to put it on the
6 short haul traffic rather than looking to the long haul
7 traffic to take care of the short haul shipping?

8 MR. SINCLAIR: Mr. Chairman, before the Vice-
9 President of Traffic answers that question, the policy
10 of the company in regard to that matter should be
11 abundantly clear, and I would say that I am instructed
12 in this matter to say that the Canadian Pacific Railway
13 Company does not want assistance from the State. It will
14 allow traffic to stand on its own feet except, and only
15 except, in one regard have we ever suggested a subsidy
16 on traffic, and that is on grain in western Canada, for
17 very particular reasons, and I will go further, Mr.
18 Chairman: the policy of this company I represent is
19 this -- and I have indicated this to the Commission: we
20 will say right now that the bridge subsidy -- take
21 it off. There is an example of our situation. This is
22 the policy of Canadian Pacific.

23 MR. FRAWLEY: My friend is making a speech and
24 I will insist on making one as soon as my friend sits
25 down -- well, he is sitting down now so I will make it
26 now. My friend talks about "we do not want subsidy".
27 He cannot pay his wages. He tells the people of Canada, the
28 government and the unions "We can't pay our wages." Where is
29 the money going to come from to pay their wages?
30 Anybody who cannot pay their wages -- all I can say is



1
2 if you find difficulty in paying ---

3 MR. SINCLAIR: We do not say we cannot pay
4 our wages. The Canadian Pacific did not say it could
5 not pay its wages.

6 THE CHAIRMAN: We will have no further
7 discussion.

8 MR. SINCLAIR: I think you have to make this
9 clear, Mr. Chairman: what the Canadian Pacific did say
10 is that a wage increase at this time in light of all
11 the circumstances that the freeze on freight rates did
12 not enable the company to operate, with its selling
13 prices frozen and its costs increasing, and the company
14 has never said it is not able to pay its wages.

15 THE CHAIRMAN: That is the end of that.

16 MR. FRAWLEY: No, Mr. Chairman; it is not fair
17 to us -- and I am quite sure you wish to be fair. As
18 long as Mr. Sinclair wants to make one of these
19 propaganda speeches I want to make one in return.

20 MR. SINCLAIR: I object to my friend saying
21 I am making a propaganda speech.

22 MR. FRAWLEY: It certainly is. If it was
23 lifted today, with the agreed charges, if this took
24 increases, and international traffic not taking any
25 increase, would my friend come back to the people of
26 Canada to put on another freight rate increase?

27 MR. SINCLAIR: The answer to that is, obviously,
28 yes, because the way of putting an increase on as the
29 fairest and most workable way is through horizontal
30 percentage increases.



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THE CHAIRMAN: We will hear that in argument.

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MR. FRAWLEY: Thank you very much, Mr.

4

Edsforth.

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BY COMMISSIONER MANN:

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Q. Mr. Edsforth, you had a discussion both

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with counsel for your company and with Mr. Mauro about

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the waybill analysis, or, at least, the waybill analysis

11

came into these discussions to quite some extent, and

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I refer you particularly to page 18089 of volume 109,

13

and also to the discussion you had with Mr. Mauro on

14

certain figures, in particular at page 19533 of volume

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118.

16

Now, I gather from that, Mr. Edsforth, that

17

you have certain reservations about the validity of the

18

data shown in the waybill analysis; is that correct?

19

A. Well, Mr. Commission Mann, simply this:

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that it is, after all, a 1% sample of waybills, not

21

really a 1% sample of revenue, and it is only a 1%

22

sample of waybills of some traffic, not all traffic,

23

moving between points in Canada. By that I mean --

24

and I think it is quite clearly spelled out in the

25

introduction to the Board's waybill analysis -- that

26

waybills involving less than carload lot -- OCS traffic

27

and switching traffic, traffic originating on rail points

28

outside Canada, rail-lake and rail, rail-water-rail and

29

ocean-rail waybills were excluded. So to that extent,

30

Mr. Commission Mann, it is not really a full 1% sample



1
2 of all waybills, and not of all revenue.

3 Q. Leaving aside the less carload traffic
4 and only dealing with the carload traffic now, does it
5 not give you a 1% sample of most of the intra-Canadian
6 traffic?

7 A. Well, of course, you say leaving out the
8 l.c.l.?

9 Q. Oh yes, just deal with carload traffic.

10 A. Well, there is a fair volume of rail-
11 lake and rail and water-rail and, to a lesser extent
12 but still fairly significant, of rail-ocean.

13 Q. Using revenue as an index, could you give
14 us the percentage to which the waybill analysis now
15 covers intra-Canadian carload traffic?

16 A. Did you say on a revenue basis?

17 Q. On a revenue basis, or, if it is easier,
18 on a tonnage basis.

19 A. I do not know I can give you that, Mr.
20 Commissioner Mann, exactly. I think there would be some
21 variations one year to another. I would like to think
22 that over just a little bit. If I can get a figure I
23 will be glad to develop it.

24 Q. I do not want you to go to any great
25 trouble, but if that figure were handy, say, for the
26 last two or three years it would be very helpful, but
27 if it is a lot of work please do not do it.

28 MR. SINCLAIR: The percentage that 1% is of
29 the total intra-Canadian?

30 COMMISSIONER MANN: That is right -- carload



1
2 traffic.

3 THE WITNESS: The total intra-Canadian revenue?

4 COMMISSIONER MANN: Q. That is right, on
5 carload traffic.

6 A. For the CPR?

7 Q. That is right.

8 A. Yes, I think I can develop that. My
9 thinking would be there might be a variation of 10 to 15%;
10 in other words, the 1% might be .9 or .86 or something
11 like that; but it could be in that range.

12 MR. SINCLAIR: So that we get this right, you
13 have asked us, Mr. Commissioner Mann, to develop for two
14 or three years a percentage of the actual waybills of
15 Canadian Pacific filed with the Board as to what
16 percentage of revenue they were of the traffic represented
17 by those waybills?

18 COMMISSIONER MANN: No, that does not work
19 because you do not have any waybills for OCS traffic or
20 on rail-lake and rail, and lake and rail traffic; so,
21 that does not give me what I want.

22 What I wanted to get at is simply this: I
23 want to find out to what extent the waybill analysis
24 1% sample is valid. That is really the object of this
25 exercise, and to that end I asked Mr. Edsforth to tell
26 this Commission the percentage which the traffic shown
27 in the waybill analysis is of the total revenue, intra-
28 Canadian, carload traffic, of Canadian Pacific. I
29 should make it a little narrower and cut out the OCS
30 traffic because I am interested in revenue traffic.



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2 MR. SINCLAIR: What I understand you are
3 asking, Mr. Commissioner Mann, is that for two or three
4 years you are asking us to determine from the Canadian
5 Pacific 1% sample of waybills how much revenue that was
6 related to the whole revenue for the kind of traffic
7 represented by those waybills expressed as a percentage?

8 COMMISSIONER MANN: That is admirably put, Mr.
9 Sinclair; thank you.

10 MR. SINCLAIR: Well, we will try.

11 COMMISSIONER MANN: With this important
12 qualification: if it is a lot of work, please do not
13 do it.

14 MR. SINCLAIR: I think we could get close to
15 it.

16 THE WITNESS: I think something fairly close.

17 COMMISSIONER MANN: Q. I have heard you give
18 evidence over the years, Mr. Edsforth, and very often
19 that evidence referred to the waybill study?

20 A. That is right.

21 Q. What does the waybill analysis do for
22 the railways? Are you happy about having it?

23 A. We do find it useful, Mr. Commissioner
24 Mann, but generally, for one thing, as perhaps indicating
25 trends -- the growth of competitive traffic in proportion
26 to the total traffic, and also the same with agreed
27 charges. We use it more for that purpose, and perhaps
28 sometimes we want to get a specimen of a movement and
29 you want it quickly and you can get that. Of course,
30 if you are making a study you would go further than that.



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Q. Could you not get it out of your own records without going to the trouble of photostating waybills -- instructing your agents, first, to pull them out and then photostating? Could you not get them out of your own records just as easily?

A. Make our own waybill analysis?

Q. Yes, for trend analysis.

A. Yes, I think probably we could. Certainly we would have a little bit more work to do in our own accounting department. Yes, we could do it that way.

Q. Would you prefer to do it that way?

A. I do not know that we have any particular reference. You see, we get the cards for each of the waybills we send to the Board, and we run them through and make our own Board's waybill analysis -- of our own.

Q. Do you find there are any shortcomings on that waybill analysis as you get the card?

A. I do not quite understand that.

Q. Once you start making your own analysis do you find the 1% sample has any serious shortcomings? What I was really aiming for, Mr. Edsforth, is to get your idea as to whether there are any improvements that should be made on the 1% sample? Should the size be changed, or the information be altered? Should there be an l.c.l. waybill study?

A. We tried that once.

Q. I know.

A. And we went down in a morass of figures. We did try an l.c.l. waybill analysis once and it was



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2 so voluminous and took such a long while to prepare that
3 the information, when we got it, was really of no
4 practical value. So, I do not think we should attempt
5 to do it now. Whether there is any way of improving the
6 method of taking the sample out, I do not know. I
7 suppose the more waybills you put into the sample, that
8 cuts down to some extent the margin of error, but it
9 also increases the volume of work. This does involve
10 a great deal of work on our part and a good deal of
11 expense, I might add too.

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14 --- A short recess ---
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2 THE CHAIRMAN: Order, please.

3 COMMISSION MANN: Q. I think, Mr. Edsforth,
4 we can probably discuss the next point. I am now
5 through with the waybill coverage.

6 I wanted to discuss with you, Mr. Edsforth,
7 something that appears or that takes its cue from
8 remarks you made at page 18095 of volume 109.

9 A. Yes, I have that here, Mr. Commissioner
10 Mann.

11 Q. I have reference in particular to your
12 discussion with Mr. Sinclair, where you said that 40%
13 is a fair sized increase. Of course, this, as I
14 realize, is on the movement of sugar beets on a short-
15 haul movement.

16 Then, on the next page you say, starting at
17 line 8, that if such an increase were to be put on the
18 traffic the shipper would use alternate transportation,
19 or the movement would dry up, or the railways would
20 have to decrease their rate substantially.

21 On page 18097 you say you have to look at
22 the effect of rates on the movement of traffic, and
23 whether traffic will be dried up; and this is an
24 important consideration, not only from the shipper's
25 point of view, but also from the point of view of the
26 railway's revenue.

27 Well now, in any increase that you contemplate,
28 Mr. Edsforth, you try to the best of your ability to
29 judge the erosion and attrition factors that pertain to
30 the increase?



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A. Yes, we do, Mr. Commission Mann. We try to.

Q. Now, in the latest of the series of post-war increases, which was an application for a 19% increase in rates, as I recall it, you had an erosion factor of 50% on competitive rates, and I believe either 20 or 22% on normal rates?

A. 20%, I believe, on normal rates, Mr. Commissioner Mann.

Q. Right. Now, that, Mr. Edsforth, was based on a 19% general increase in rates?

A. Yes.

Q. Now, let us take the 40% that was mentioned in another context here in the record. Let us take that and postulate that you were now thinking of increasing your rate level by 40%. What amount of an erosion factor, roughly speaking, Mr. Edsforth, give or take a few percent, what kind of an erosion factor would you expect (a) on competitive traffic, and (b) on normal traffic, against the evaluation you made in the last case?

A. Well, I find it difficult right at this point to give you any kind of a figure, because I think you would have to evaluate that increase on the various types of traffic that you handle. In other words, the erosion might be very much more severe on the shorter haul business and you could not handle the traffic. That could change the percentage quite substantially on competitive as well as on normal.



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Q. Yes?

A. Now, I could not say what it would be, but I think for that reason it would likely be substantially more than in the case of the 19%.

Q. Yes. You would not necessarily think that because I doubled the increase applied for you would get 100% erosion on competitive and 40% on commodity and class?

A. Oh, no, I do not think so. I would have to really look pretty carefully, but I could not quite visualize 100% erosion on competitive, no.

Q. But it would be substantially greater than 50% on competitive traffic?

A. I think it would be, and I think it would be greater than 20% on normal traffic, too. Again, I say because of the incidence on the short haul or low value goods.

Q. Yes, right.

Now, Mr. Edsforth, you have a 12% outstanding now in respect of materials, I believe, increase in materials which is the balance of the case that resulted in a 17% increase in 1958?

A. Well, I do not know, Mr. Commission Mann, whether it is just tied to materials alone. I think the increase is to bring our revenue up to permissive level of earnings, and of course there would be more than material costs there and the cost of money. Change in traffic mix -- that is quite important.



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2 Q. That application was made in
3 September, I believe, of 1958.

4 A. Yes. Now, I am sorry I cannot give you
5 the exact date of that.

6 Q. I think I am wrong there. The original
7 application in respect to wages was made in September,
8 1958, but I think the other one was made in February,
9 1959.

10 A. Probably.

11 MR. SINCLAIR: Well, Mr. Commissioner Mann,
12 actually the situation is this: there was an
13 application started -- the way the application is
14 drawn, it has what we would call a general clause,
15 and my friend had this aspect. There was the question
16 in issue of an interim increase for requitement to
17 the railways of the wages. All other issues which
18 involved the changes in rate levels that would be
19 required to meet a permissive level of earnings
20 calculated on the Board's Requirements Formula as it
21 then existed, plus the question of a new level of
22 permissive earnings. So that, involved in the second
23 issue very materially were changes in material prices;
24 changes in tax rates, which you will recollect increased
25 (income tax rates) by about 3%. Unemployment insurance
26 increased by about 10%. Sales tax increased by about
27 2%. These were all in the budget resolutions that
28 became effective in 1959.

29 So that, what the witness is saying is that
30 quite frankly the way this operates is that we draft



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2 in the railway law section of the Canadian Pacific
3 Railway and the Canadian National the form of the
4 application; the revenues are estimated by the traffic
5 department, and the expenses are estimated by the
6 various departments, and the short fall to a given
7 figure is developed. Then, the traffic department is
8 asked what is to be required to meet that.

9 Now, it is not Mr. Edsforth's job to say what
10 are the various elements in expenses that are being met
11 by an increase case. In other words, I would hate to
12 have it suggested that the second part was restricted
13 to materials, and I think Mr. Edsforth is saying that
14 what the Board in its judgment noted here was the fact
15 that ---

16 THE CHAIRMAN: It covers all additional costs?

17 MR. SINCLAIR: I beg your pardon?

18 THE CHAIRMAN: It covers all additional costs.

19 MR. SINCLAIR: It covers all additional costs,
20 sir, and also the question of what would be a reasonable
21 permissive level of net rail income for Canadian Pacific.

22 COMMISSIONER MANN: What I wondered, Mr.
23 Sinclair, -- and this was really the purpose of my
24 question -- is whether that 12% which is now under
25 adjournment --

26 MR. SINCLAIR: With respect, it is not 12%.

27 COMMISSIONER MANN: Was there not a figure
28 put on it at the time?

29 MR. SINCLAIR: Subject to the reserves that
30 I am saying were in the application; so that when you



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2 come, you take into account the changes that take place
3 in the meantime up or down. And in this case they were
4 very materially up.

5 COMMISSIONER MANN: The 12%, which has been
6 bandied about, is no longer valid today; that you would
7 likely end up with a higher figure to finish the balance
8 of that case?

9 MR. SINCLAIR: A higher figure than 12%?

10 COMMISSIONER MANN: Oh, yes, and that is quite
11 removed from any increase in wages that you have
12 experienced or will experience or may experience?

13 MR. SINCLAIR: No, sir, not quite apart. I
14 am sorry; it is not that easy. The running trade
15 operations that came in were in many of the contracts
16 of a longer term than the non-ops. And, with differing
17 levels of wage increases, none of them were less than
18 the non-op basis. Although, there were in some cases
19 some rule changes, particularly this is applicable to
20 the trainmen's organization, and also there are some
21 changes with the B. of L.F. & E. in their wage
22 contract. the point is the wages would still be in
23 the second part, in part, and so you cannot say
24 exclusive of wages.

25 COMMISSIONER MANN: Exclusive of the wages --
26 of the wage level which the non-ops may or may not obtain?

27 MR. SINCLAIR: Exclusive of the wage increase
28 costs that were dependent upon the application of the
29 non-ops settlement across the board.

30 COMMISSIONER MANN: Thank you very much. I



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2 have it now.

3 Q. Mr. Edsforth, this gets into more of a
4 traffic field now. You were discussing with Mr.
5 Sinclair the question of per car rates and incentive
6 rates. And you say at page 18123 of volume 109:

7 "I am strongly of the opinion that incentive
8 rates based on a graduation in the rates with
9 relation to the minimum is the proper way
10 to do it."

11 A. Yes.

12 Q. Now, what I wondered about, Mr. Edsforth,
13 is why would it not be desirable to put more graduations
14 into Canadian freight classification No. 20 with regard
15 to the carload column of ratings?

16 A. You mean different ratings for different
17 minimum weights, Mr. Commissioner Mann?

18 Q. Yes. You have that now with regard to
19 canned goods, I believe, and in one or two other
20 commodities. But why would that not be a desirable
21 thing for all commodities moving in carloads?

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2 A. Well, I think for all commodities, that
3 takes in a large field because there are some commodities
4 which, because of their bulky nature and so forth, cannot
5 move at any more than the stated minimum so there would
6 be no point there in putting in incentive classification
7 ratings. Now, I think you would have to look at the
8 different commodities and determine whether the classi-
9 fication of the goods and minimum weights attached thereto
10 could be valid. I think a much more satisfactory way of
11 doing it is by making it on commodity rates because then
12 you are looking at a specific movement, you can see the
13 swings in your cost resulting from the different weights
14 loaded and, therefore, you are able to get a better idea
15 of what a better classification would be. When you are
16 dealing with class rates in a general classification there
17 may be problems. There may be many cases like the canned
18 goods where it may work out.

19 Q. One of the problems may be to the extent
20 a commodity -- commodity rates have some effect on the
21 class rate, especially and the classification would help
22 also to reflect the varying minimum and minimums if
23 that is justifiable under the circumstances?

24 A. It may or may not be. You see, the class
25 rates are really for general advocacy, and, therefore,
26 they must take in wide sweeps all conditions and circum-
27 stances.

28 Q. Why did you do it on canned goods?

29 A. I recall there it was in part to meet a
30 competitive situation, that was carrier competition to



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2 take some advantage of the lower minimum and it was
3 more or less done as an expedient, let us say. I
4 think later on we picked up most of that in our
5 commodity tariffs and agreed charges.

6 Q. Now, we have had quite a discussion
7 before this Commission about circular reasoning
8 and I hope you and I can stay away from circular
9 reasoning. I was going to refer you to page 18148
10 where in respect to that you said with regard to
11 these rate tests, you said at line 11:

12 "What I had in mind was to maintain a
13 reasonable relationship so your structure
14 will not get all out of balance."

15 Well, now, we have witnessed, Mr. Edsforth, an
16 increasing trend towards what you might call
17 specific rates, that is competitive rates put in
18 to meet a specific situation, point to point, namely
19 to meet carrier competition or external market
20 competition. Now, all these specifics must, by
21 definition, destroy the general and then you can
22 weigh -- why then must we worry so much about main-
23 taining a reasonable relationship when the dictates
24 of competition destroy the very essence of a reasonable
25 relationship?

26 A. Well, I do not know that I can altogether
27 agree with you that you destroy the very essence
28 because, true, you do put in competitive rates or
29 agreed charges to meet particular situations, specific
30 situations, but nevertheless you do have a large body



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2 of traffic still moving at normal rates or, that is to
3 say, rates not dictated by force of carrier or external
4 market competition. I think it is important to keep
5 this in a fair relation.

6 Q. I understand that. You see, of
7 course, what one wonders about is this; this body of
8 normal rates is shrinking, it is dying of malnutrition
9 while the other body is increasing as can be seen very
10 readily from the trends shown in the Waybill Analysis?

11 A. Yes, I think we are certainly making
12 more competitive rates and agreed charges and perhaps
13 to some extent that is reducing the amount of traffic
14 moving at normal commodity rates but it is by no means
15 insignificant, very much to the contrary.

16 Q. I understand that but take class rates,
17 for instance, they are a very small percentage of
18 overall revenue. Commodity rates are still a fairly
19 large percentage but if you look at the trend lines
20 it is a decreasing segment of the rate structure.
21 When I say this I mean the normal rated traffic.

22 A. Decreasing in absolute volume or do
23 you mean relatively?

24 Q. Relative to the rate structure as a whole.

25 A. It may be decreasing relatively but
26 not necessarily so in absolute volume. That is the
27 one thing you must look at.

28 Q. I understand, the reasonable relationship
29 really is a reasonable relationship on one normal rate
30 to another normal rate but not necessarily the



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2 reasonable relationship of a normal rate to a com-
3 petitive rate. This is what you suggested to me
4 earlier?

5 A. Yes. I do not consider that you can
6 test the level of a normal rate against a commodity
7 rate to test the reasonableness of one or the other.

8 Q. I understand that, but if you follow
9 me on a flight of fancy like this, that in the year 1965
10 there would only be a few and a very insignificant
11 few normal rates left in the rate structure, well then,
12 the test of reasonableness would be no longer apparent
13 or it would have diminished so much in importance to
14 all intents and purposes it is no longer of any
15 importance. Would that be right?

16 A. I am not quite certain whether I got
17 your question correctly but did I understand you to make
18 an assumption that all normal rated traffic had dis-
19 appeared by 1965?

20 Q. Was very insignificant by 1965. This is,
21 of course, an assumption based on no facts at all and I
22 do not want to give the impression that is what will
23 happen but I suggested to you to follow me on a
24 flight of fancy.

25 A. Well, it is quite an effort. I presume
26 if you ever get to the situation you speak of there
27 having only competitive rates then the reasonableness of
28 those rates would be measured against the competition
29 you are meeting.

30 Q. That is right. It would then have to be



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2 a test of reasonableness rather than the test of
3 reasonableness comparing one rate to another to keep
4 the rate structure in balance?

5 A. Well, I presume, yes. Specific tests
6 of reasonableness perhaps to this extent that your
7 rate level being below what you otherwise apply is
8 then determined by the competition and that is the
9 test you apply.

10 Q. You see, what I wondered about was this:
11 that the concern with keeping a rate structure in
12 balance was greatest -- and this is what I was going
13 to ask you -- was it greatest at the time when by far
14 the vast majority of the traffic may be under normal
15 rates in the days when you had a virtual monopoly? That
16 concern was greatest then, was it not?

17 A. Well, I would think it was a great
18 concern then but it still is, because we still do have,
19 and I must keep coming back to that, a big volume of
20 traffic moving on normal rates to which the tests
21 relate.

22 Q. I do not want to belabour the point but
23 this test was easiest for you to apply in the days
24 when you had most of your traffic moving under normal
25 rates?

26 A. No, I do not think so, necessarily. I
27 do not think it would be any easier to apply under
28 those conditions than it is now.

29 Q. It applied to more rates?

30 A. Well, a matter of degree, that is all,



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2 Q. And it applies to fewer rates now?

3 A. Well, when you say it applies to fewer
4 rates, that may be one thing but you also have to look
5 at the traffic that moves, these rates by these do
6 not mean very much.

7 Q. And that may be tested statistically
8 to some extent?

9 A. I suppose it can.

10 Q. Now, on the same page, 18148 of volume
11 109, you say, starting at line 25:

12 "Well, in a given case you would
13 determine it first of all by conferring
14 with the shipper, looking at the product
15 involved, determining what the market is
16 and any relevant facts you have got."

17 I wondered about this phrase you use "determining what
18 the market is"? Can you use it in relation to the
19 reasonableness of the rate as a test?

20 A. Well, I think there that is one of
21 the factors you look at in order to determine whether
22 the traffic was moving freely in regard to its po-
23 tential.

24 Q. How do you determine the potential?

25 A. Well, of course, when you are
26 negotiating with a shipper you generally discuss that
27 with him and he can tell you pretty well what the
28 potential is.

29 Q. Do you always agree with his assess-
30 ment of the potential?



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2 A. Not always, we often make our own
3 studies too, as I think we should.

4 Q. And if you think he has overshot his
5 market and is perhaps too ambitious in his attempts
6 to reach markets then you tell him so?

7 A. You mean to say he thinks the potential
8 is greater than it really is?

9 Q. That is right.

10 A. Well, we will say we do not think there
11 is that much traffic involved but you have ways and
12 means of testing it. You perhaps look at other
13 suppliers, what they are doing, and so forth.

14 Q. There is, in other words, a value judg-
15 ment involved and there seems to be, I am not quarrelling
16 with the phrase, a value judgment involved by the
17 railway as to the economic activities of a given
18 plant?

19 A. Well, there is a value judgment, of
20 course, that is so but it is something that is not
21 an arbitrary judgment, it is a judgment that you sort
22 of work out in conjunction with the shipper if it is
23 at all possible.

24 Q. But there may be a conflict of opinion
25 between the two of you and to that extent one opinion
26 must prevail over the other?

27 A. Well, I suppose that is right, yes..

28 Q. And you go now particularly extensively
29 into market research?

30 A. We are doing a great deal more of that.



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2 Of course, that is something that will require a
3 good deal more information but we have been working on
4 it to get our statistics a little better in our 705
5 programme. Now, we started to get right after
6 that back in 1955 and actually got our first computer
7 machines in 1957. There are some real problems
8 and it is not easy to develop this kind of information.
9 It is a problem of getting your lines of communication
10 set up, your personnel trained as to new methods of
11 doing things, getting your material, checking on the
12 quality of the material, and, very frankly, we still
13 have not reached the stage where we are satisfied that
14 we have the quality that we want sufficient to give
15 us the answers we need, but, we are working on it and
16 are making progress all the time. We do hope with
17 the information, when we get it, to be able to do
18 a better assessment of market potentialities in
19 relation to our own traffic.

20 Q. Knowing the tenacity of the C.P.R. as
21 I do, I am quite sure you will get that information.
22 However, you see, that in a sense forces you, and
23 perhaps very justifiably so, to take into account in-
24 ternal market competition.

25 A. Internal market competition?

26 Q. As between shippers and a given market?

27 A. No, I do not think so, not as a
28 basis for setting the level of your rates. Certainly
29 it forces you to look at the traffic that is moving
30 to the market and through whatever sources, but it does



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2 not force you to do that in relation to the rate level
3 as between suppliers. It may have something to do
4 with the overall rate level that all suppliers pay
5 relative to the distance.

6 Q. I wondered how you could possibly stay
7 away from it to have a situation where one shipper
8 is in a market and another shipper, something having
9 happened that I cannot define right now, wants to get
10 a lower rate and you think on the basis of your own
11 market research that he is too ambitious in reaching
12 that market may put some influence on his reaching
13 that market?

14 A. Well, may be. Of course, that depends
15 on the validity. What I do say is this, it does
16 not have any validity at all in determining what his
17 rate may be in relation to the rate of another supplier
18 and that is what I mean by meeting internal rate
19 competition.

20 Q. I think I understand. Now, you were
21 very frank with us and told us you are certainly not
22 wedded to the horizontal percentage increase method.
23 I had a discussion with Mr. Roberts about this and I
24 wondered whether what we have today is really a
25 horizontal increase or whether it is an ex post facto
26 selective increase?

27 A. I think I do remember reading your
28 discussion on that and what you are saying is that a
29 horizontal increase, by reason of the fact that you
30 have to make adjustments afterwards, is a selective



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2 increase. Now, I do not think you could put it
3 in those terms because if you do it beforehand, before
4 you make your increase and you decide what commodity
5 you are putting it on and how much you would put on
6 this and that, you are sort of using your own arbitrary
7 decision as to what to do. But, when you make the
8 adjustment after the increase it is not your decision
9 that forces that, it is the competition of the carrier
10 competition or other things that require it.

11 Q. I understand that, but what difference
12 does it make when in the long run when this whole thing
13 comes out of the grinder, as it were, we end up with
14 a selective increase, do we not?

15 A. Well, it all depends on how you like to
16 use the term. The term "selective increase" as it
17 has been put forward at times before various regulatory
18 tribunals has been carriers select an increase and
19 in this case we do not.

20 Q. Let us put it this way: if the carrier
21 selects the increase before he makes his application
22 he takes into account many other factors and I cannot
23 exhaust them all but the competitive situation in
24 which that movement finds itself, there are various
25 factors that go in?

26 A. Those are some of them, there are many.
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2 Q. That is right. Well, these same factors
3 in a sense come up after you have made the increase?

4 A. They develop after the increase and
5 therefore they are based on actual experience, Mr.
6 Commissioner Mann; that is to say, when you make a
7 selective increase beforehand you are prejudging the
8 situation, rightly or wrongly; but, afterwards, if you
9 have to make the adjustments after the increase, then
10 it is not a matter of your judgment. It is a matter of
11 the facts as they are.

12 Q. Yes, I understand that.

13 A. And there is quite a distinction.

14 Q. What I was merely trying to explore with
15 you is that in the long run the thing is exactly the
16 same, isn't it?

17 A. No.

18 Q. Quite apart from who selects?

19 A. No, the results could be very, very much
20 different.

21 Q. Yes, I can see that.

22 A. In other words, we might decide at a
23 time we were going to exempt this particular traffic
24 and not that, but it may turn out the one we were
25 going to exempt took all the increase and the other
26 didn't.

27 Q. But you do now exempt certain traffic:
28 take the incentive rates between Montreal and Toronto,
29 and I believe the l.c.l. incentive rates applied in the
30 Atlantic provinces -- and this is C.N.R. -- the incentive



1
2 rates between Montreal and Toronto did not take the
3 17 per cent increase?

4 A. Between Montreal and Toronto?

5 Q. Right.

6 A. That is right, they did not.

7 Q. So, somebody made a prejudgment and made
8 a selection?

9 A. In that particular case.

10 Q. And in any other cases?

11 A. Where we decide not to put it on, yes,
12 but there I think your prejudgment was based on circum-
13 stances that you were pretty certain of.

14 Q. I understand that. I was just trying to
15 see to what extent we have today and have had in the
16 last couple of years horizontal percentage increases,
17 as the public understands horizontal percentage
18 increases: that was the purpose of this discussion?

19 A. Yes, sir. Well, I still think they
20 are a horizontal percentage increase, and any selection
21 that comes about is brought about by circumstances
22 which follow.

23 Q. The horizontality is not as horizontal
24 as it was in 1948? We have got the inclined horizontal
25 increase now?

26 A. I just don't exactly understand that.
27 You mean to say it is slanting. It depends on what
28 commodity you are looking at.

29 Q. Mr. Edsforth, you are familiar with X223?
30



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2 A. Yes, the recent increase in the United
3 States?

4 Q. Yes.

5 A. Yes.

6 Q. There the principle was followed which
7 divided rates for increase purposes between those rates
8 below 65 and rates above 65 cents per 100 pounds?

9 A. That is right.

10 Q. For a lower increase on the below 65
11 and a higher one on the above 65 cents a 100 pounds?

12 A. Yes.

13 Q. Do you think that is a system which could
14 be followed in Canada?

15 A. This, of course, Mr. Commissioner Mann,
16 was an increase of half a cent per 100 pounds on all
17 rates less than 65 cents, and one cent per 100 pounds
18 on all rates over 65 cents.

19 Q. Yes.

20 A. Well, I don't know; you see, in this
21 case the increase is a very, very minor one, and I don't
22 know that the results would have been very greatly
23 different if you had taken a percentage increase of
24 perhaps $1\frac{1}{2}$ per cent. But, if you get into an increase
25 where you need 15 or 20 per cent, I do not think I
26 would follow that system; I would not advocate it.
27 We would be in all kinds of trouble.

28 Q. Mr. Edsforth, let us quickly move on, if
29 I may, to something else, and that is a discussion on
30 subsidies which you had with Mr. Sinclair and with



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2 other counsel, and I am particularly referring to page
3 18179 in volume 109 where you say at line 20 -- and
4 this is with regard to the maritime provinces --

5 "In other words, it is the shipper who would need the
6 assistance and it should not be tied to transportation
7 costs." I wonder whether you could tell us why a
8 shipper would need assistance, by way of subsidy?

9 A. There might be very many reasons; there
10 could be a difference in labour costs, there could be
11 a difference in his taxes, water supply, power, or his
12 unit costs of output determined by a smaller production
13 versus another competitor. Those things might require
14 some assistance -- I don't know.

15 Q. And you don't think that transportation
16 should be used at all as a vehicle for distributing
17 such assistance?

18 A. No, I don't think so, Mr. Mann. Even
19 in the case of the grain we don't feel it should be, but
20 it is a matter of an alternative. Very frankly, on a
21 just and reasonable rate level, that rate in western
22 Canada should be at the level, as we say, averaging
23 about one cent a ton mile, and that is what the shipper
24 should pay.

25 Q. To be perfectly consistent, then, wouldn't
26 it be ideal if you could raise your grain rates to what
27 you think a just and reasonable level of rates is, and
28 then if the shipper needs assistance because his labour
29 costs are too high or his scale of production is insuf-
30 ficient, bearing in mind world productivity, would it



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2 not then have been more consistent to advocate that the
3 shipper of grain should obtain assistance direct instead
4 of having it administered by the rate structure or the
5 field of transportation?

6 A. Well, that might develop into a basis of
7 a means of doing it. Actually, the rate should be at
8 that level on a just and reasonable basis, and if
9 assistance is needed by the producer, then a means
10 should be found for getting it to him, and all I have
11 suggested here is that this perhaps may be a means of
12 doing it. Maybe it is not. Nevertheless, those rates
13 should be at that level, and if Parliament decides
14 assistance is needed because of some hardship or dis-
15 locations, then they should then find a method of doing
16 it.

17 Q. It is only the feeling that Canadian
18 Pacific has that the hewing to the principle would be
19 impractical that made it suggest to this Commission the
20 method which it advocates for the assistance on grain
21 rates?

22 A. We suggested a method that we thought
23 might work out well. It does not necessarily follow
24 that is the only method. Parliament may find another.
25 This was our suggestion as to a way of doing it.

26 Q. Then, we could say, and I suppose it
27 would follow logically, Mr. Edsforth, that the principle
28 of not using the rate structure or transportation
29 generally as a vehicle for adjusting economic differen-
30 tials is not an immutable principle, but may be broken



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2 if the practical situation demands that?

3 A. Well, Mr. Commissioner Mann, I don't know.
4 That is a rather large question.

5 Q. We have got some large questions to deal
6 with before this Commission?

7 A. I know. I am not saying it is difficult,
8 but I am trying to see if I can cover it. It would
9 depend on the practicality of the situation, I agree,
10 and I think it should also depend largely on what circum-
11 stances forced the need for a subsidy, but in my humble
12 opinion, Mr. Commissioner Mann, it is wrong in principle
13 to just tie everything into the transportation subsidy.

14 Q. I understand that, but there is nothing ---

15 A. There are other factors.

16 Q. There is nothing sacrosanct about trans-
17 portation that exempts it as a suitable vehicle for the
18 disbursement of subsidies that shippers might need?

19 A. If it was only on transportation alone,
20 or something like that, no.

21 Q. Well, in one circumstance it may be the
22 tax structure which is a good vehicle for disbursing
23 the largesse of the State; in another instance, as I
24 understand you, it may be the field of transportation
25 which is the most suitable vehicle for the disbursement
26 of sums to needy segments of the population?

27 A. I think it would depend on circumstances,
28 Mr. Commissioner Mann, and I think in all cases, no
29 matter how you do it, the subsidy should be paid to the
30 man who needs it and not processed through some other



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2 agency.

3 Q. But there may be practical circumstances
4 which, for instance, in the light of your investigations
5 have forced you to suggest to this Commission that the
6 shipper of grain to export positions should not be the
7 direct recipient but should be the indirect recipient
8 of the subsidy?

9 A. We suggested that because of the area
10 which was involved, and the possible practical difficul-
11 ties of doing it. But, that may not be the whole
12 answer. Somebody else may have a better way.

13 Q. On page 18184, Mr. Edsforth, you answered
14 Mr. Sinclair by saying this, "I think the general position
15 on subsidies is pretty much the same, a subsidy should
16 be given to the person for whose benefit it is and not
17 through some other means."

18 A. That is what I have just said.

19 Q. Yes, and Mr. Sinclair asked, "And would
20 you make any exceptions to it at all?" and you answered,
21 "Well, only in the case where there is no practical
22 alternative and where, for economic reasons, a level
23 of rates must be maintained . . .", and then you go on.

24 I wondered whether you could tell us what
25 economic reasons you had in mind?

26 A. Well, I didn't have any in mind. I just
27 said if there were any economic reasons. I wasn't
28 trying to spell out what they were.

29 Q. This would be following what you said to
30 me earlier about differentials, water rates, scale of



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2 production and so on: those are economic reasons?

3 A. Well, yes, those could be economic reasons.
4 There may be others I haven't thought about.

5 Q. Oh, indeed. I think that is all I have,
6 Mr. Edsforth, thank you very much.

7
8 BY COMMISSIONER GOBEIL:

9 Q. I have only one question, Mr. Edsforth.
10 This morning to a question by Mr. Frawley about selec-
11 tive increases you said you had tried it in 1915 and it
12 was disastrous. Will you tell me how disastrous it
13 was?

14 A. Yes, Mr. Commissioner Gobeil.

15 THE CHAIRMAN: This was l.c.l.?

16 THE WITNESS: No, it covered a lot of com-
17 modities, Mr. Chairman. It was a general increase in
18 eastern Canada, Mr. Commissioner Gobeil. The railways
19 found in 1915 that they were short of revenue -- they
20 needed additional funds, and so they put forward an
21 increase suggesting various kinds of increases, cents
22 per 100 pounds, and different amounts on different
23 commodities and I think there was a percentage or two
24 in there as well. That just brought about a tre-
25 mendous storm of protest and requests for hearings.

26 THE CHAIRMAN: And those hearings lasted a
27 long time?

28 THE WITNESS: In my recollection, if my
29 recollection serves me right, they took as much as a year
30 and a half and caused no end of trouble.



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2 MR. SINCLAIR: And that is a long time.

3 THE WITNESS: And, of course, all the time
4 the railways were still in need of money. That was
5 what was disastrous: they needed money then, and it
6 took them a year and a half to get it.

7 COMMISSIONER GOBEIL: That is all, thank
8 you.

9
10 RE-EXAMINATION BY MR. SINCLAIR:

11 Q. Mr. Frawley put to you this morning
12 that if you were going to raise rates -- the low rated
13 traffic -- you would be concerned with that, and he
14 said that there might be a question of public interest
15 involved. Do you remember that question? I
16 haven't got a transcript of it, but he used the phrase
17 in his question to you that in raising low rated
18 traffic to a higher level than was existing there
19 would be the possibility of you being concerned with
20 the question of public interest in regard to the
21 reasonableness of the level of low rated traffic?

22 MR. FRAWLEY: I think I instanced coal and
23 sand and gravel.

24 THE WITNESS: I think I remember the general
25 tenor of the question.

26 MR. SINCLAIR: Q. Mr. Frawley is kind
27 enough to say he instanced coal and sand and gravel.
28 Now, Mr. Edsforth, my question to you is this: in
29 fixing the level of coal rates and the increasing of
30 coal rates, what effect on the level do you give, as



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2 a rate man, to the question of public interest?

3 A. Well, the fact the level of the rates
4 is tested by the test of reasonableness; that is to say,
5 the fact that whether the coal rates are paying for
6 their cost of transportation plus a fair contribution;
7 whether these rates are in proper relation in the
8 freight rate structure having regard to transportation
9 characteristics, value, and so forth, and that is the
10 extent to which I think the public interest would be
11 involved -- that the rates are, in fact, at their
12 proper level and making their proper contribution.

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14 ---Luncheon adjournment.
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--- On resuming at 2 p.m. ---

THE CHAIRMAN: Order, please.

MR. SINCLAIR: Q. Mr. Edsforth, just prior to the noon adjournment, I was discussing with you the question that arose from my friend Mr. Frawley's questions to you concerning low-rated traffic and the effect of public interest in the making of rates. You told the Commission that the public interest in the level of the rates was determined by these rates being just and reasonable, and you explained what you meant by that?

A. Yes.

Q. And Mr. Frawley instanced this as one of the examples by coal. Has the public interest in the movement of coal been reflected in any way in regard to transportation charges paid by shippers as distinct from the level of the rates?

A. Yes, that is right. By means of subventions. Let us take for an example coal moving from the Crow's Nest area of British Columbia -- Blairmore -- that range, to Vancouver for export to Japan. In that case, the Canada coal was competing with coal produced in other origins, such as Australia, and places like that. And in that case, the government in order to enable the producers to reach those markets granted a subvention or a subsidy to the coal producers in western Canada.

Q. Did the coal producers object to



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2 receiving a subvention tied to the movement of coal
3 and reflected in a lower level of transportation
4 charges, Mr. Edsforth?

5 A. No, I do not think they objected to it
6 at all, Mr. Sinclair. I think on the contrary they
7 asked for it, or went after it.

8 Q. Now, Mr. Mann this morning asked you
9 some questions about the Board's waybill analysis, and
10 I think you said to him that it was a 1% sample of
11 waybills and went on to say not a 1% sample of revenues.
12 And then, also, you said to him that it was a 1% sample
13 of certain waybills?

14 A. Yes, that is right.

15 Q. Now, Mr. Edsforth, this Board's waybill
16 analysis is, you said, stated to be for the purpose of
17 trends -- establishing trends?

18 A. Or, observing trends.

19 Q. Observing trends. Is it stated to be
20 for any other purpose?

21 A. Well, I think the Board themselves
22 have said that with respect to traffic patterns, I
23 believe.

24 Q. I should say to the Commission that I
25 am quite sure that what Commissioner Mann had in mind,
26 and why I think this is important, has to do with
27 some evidence that was adduced by the questions of my
28 friend Mr. Mauro as directed towards the witness, as
29 well as the questions put by Mr. Commissioner Mann.
30 And possibly, Mr. Edsforth, to put them both in context,



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2 I would ask you this. Has the Board stated or has it
3 not as to whether -- has it made any statement as to
4 the use of this as 1%?

5 A. Well, I think the Board has said in
6 their report that it is something less than a 1%
7 sample?

8 Q. Yes. You will recall the questions of
9 Mr. Mauro dealing with exhibit 162 filed by Mr.
10 Roberts, and certain calculations he made in regard
11 to the information set out in exhibit 162. Do you
12 recall those questions?

13 A. Yes, I do.

14 Q. I think they can be found, Mr.
15 Chairman, according to my note, in volume 118 at page
16 19527 through page 19536.

17 Now, I think possibly to put in context so
18 that we may follow it I will read two small extracts.
19 Page 19535, Mr. Mauro asked you this question:

20 "Q. Now, I want to know whether or not
21 you think this Commission should accept
22 exhibit 162 as being an authentic, valid
23 statement of revenue received even though
24 you cannot account for \$75 million dollars?

25 "Mr. Edsforth: A. Well, I think you have
26 to accept the exhibit as showing exactly
27 what it shows, a 1% study which showed what
28 happened in that sample traffic."

29 And, continuing on top of the next page,
30 page 19536, Mr. Mauro questioned:



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"Q. And even though applying it by your 1% sample as has a short fall of \$75 million dollars, you say that is an exhibit that is worthy of credibility?"

"A. Yes, I think so, certainly. It shows what happened on that 1% sample and that is all it purported to show."

Then, I wish also to read to you from page 19534. Mr. Mauro was discussing the larger proportion of the \$75 million dollars that I have just referred to. This is the \$71 million factor, and he said:

"Q. And I wonder if you could explain to the Commission this shortage of revenue of \$71 million dollars.

"A. Well, again, I say it all depends on how good the sample is in relation to the 1% figure. Now, whether it works out that way or not I could not say but certainly there is quite a difference there, I agree with that. There may be many explanations for it. For one thing, of course, as I noted earlier on, there is some traffic that moves from the normal category into the competitive, that is one answer."

Now, that exhibit 162 was entitled, Mr. Edsforth, "Carload traffic via Canadian Pacific Railway". Is there anything of importance in dealing with the matters put to you by my friend Mr. Mauro relative and arising from the fact that it is carload



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traffic?

A. Well, of course, the fact that it is carload traffic only exempts, as I have pointed out to Mr. Commissioner Mann this morning, the revenue from less than carload traffic.

Q. And how much approximately was that in 1959 -- the figures that Mr. Mauro was dealing with?

A. Approximately \$70 million dollars.

Q. Yes.

Now, Mr. Mauro also referred to page 30 of the Board's Judgment of November 17, 1958, which set out certain data. He made particular reference thereto to your estimate, Mr. Edsforth, as you put it before the Board in the fall of 1958?

A. Yes, that is right.

Q. In dealing with the figure advanced by Mr. Mauro of \$75 million where he lifted certain of the figures for his calculation from the estimate of revenue for the year 1959, as shown on page 30 of the Board's Judgment of November 17, 1958, is there any factor in that that you wish to draw to the attention of the Commission?

A. Well, of course, the figure that was put in exhibit 5822 in that proceeding, which appears on page 30 of the Board's Judgment of November 17, 1958 -- the figure in the column headed "January 1, to December 31, 1959" is clearly indicated as being estimated revenue.



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2 Now, that figure is shown as all freight
3 traffic, a total of 406.2 millions.

4 Q. Yes?

5 A. And that estimate, of course, was
6 based on conditions as best we could see them at that
7 time. And, of course, it was on the rate level then
8 existing.

9 Q. That is, existing in 1958?

10 A. As existing in 1958, at the time the
11 exhibit was filed. And that, of course, was before
12 the Board's increase of 17% was authorized.

13 Q. Yes?

14 A. Now, of course the estimated revenue
15 yield from the 19% we were asking for at that time,
16 for that period January 1 to December 31, 1959, was
17 shown as 26.6 millions, approximately.

18 Q. Yes?

19 A. But we did not get the 19%; we only
20 got 17%. And, so, the revenue yield from the 17%
21 would be somewhat less than from the 19%. But I
22 estimated on the basis of the traffic shown in the
23 estimate there that the 17% would give us in the
24 range of 24 millions of dollars, approximately.

25 Q. So, then, when you turn to the
26 Annual Report for the Canadian Pacific for 1959,
27 as did Mr. Mauro, and referred to page 25 thereof,
28 freight railway revenue being \$406,485,538, and then
29 correlate that with the figure shown on page 30 being
30 your estimate -- page 30 of the Board's Judgment of



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2 1958 -- being 406.2, is there any matter arising
3 from that correlation made by Mr. Mauro that you wish
4 to draw to the attention of the Commission?

5 A. Well, of course, if my estimate shown
6 on page 30 of the Board's Judgment of 406.2 millions
7 had been correct, with the increase that was
8 subsequently authorized by the Board, we should have
9 had a total of 430.2 millions. That is,
10 406.2 prior to the increase and about 24 million
11 resulting from the 17%.

12 Q. Yes?

13 A. But, of course, our actual revenue
14 was only 406.5 millions, so that there was evidently
15 an overestimate in my revenues estimate to the Board
16 of some 23.7 million, or, say, around 24 million.

17 Q. This overestimate that you have shown
18 to be 23.7 million dollars -- is that, or was it not
19 taken into account in arriving at this \$75 million
20 short-fall that was referred to in the questions put
21 by my friend Mr. Mauro?

22 A. Well, yes, I think it was, because Mr.
23 Mauro compared the figures on exhibit 162 in the
24 column "Revenue on Rates in effect November 30, 1958"
25 -- that is, prior to the 17% increase -- with my
26 estimate in exhibit 5822, appearing on page 30 of the
27 Board's Judgment.

28 Q. Yes?

29 A. And the point here is, of course,
30 that obviously my figure in that exhibit 5822 was



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2 overstated.

3 Q. Yes?

4 A. And so the difference, therefore,
5 between the calculation Mr. Mauro put to me of
6 \$75 million would be overstated the same way.

7 Q. That is, overstated by --?

8 A. By approximately 23.7 million.

9 Q. So that you have now dealt with the
10 \$75 million, and the 23.7 million on over-estimates.

11 By the way, to assist the Commission, was
12 there any major reason for your over-estimates that
13 you would like to draw to the attention of the
14 Commission?

15 A. Well, there were two or three, really.
16 The first was the lumber strike in British Columbia
17 which took place in the middle of 1959 and that did
18 affect our revenues quite substantially. And, then,
19 the United States steel strike, which also took place
20 in 1959, had an effect on our revenue -- a first
21 effect on our revenue -- and there was some down-turn
22 in the economy in the latter part of 1959; at least
23 our figures so indicate.

24 MR. MAURO: Do you say you carried less
25 tonnage in 1959?

26 THE WITNESS: No, as a matter of fact, we
27 carried more tonnage but we had less ton miles.

28 MR. SINCLAIR: Q. I thank my friend for
29 that interjection. Why is that important? What does
30 that indicate, when you tried to move -- by taking an



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2 estimated figure or a 1958 figure and moving into
3 a 1959? What does the fact that, as you say, you
4 carried more tons but less ton miles -- what effect
5 does that have revenue-wise?

6 A. It means that, of course, the average
7 haul is shorter. There has been probably a swing
8 over to more of a short haul and lower rated traffic.

9 Q. Now, those are two items.

10 This morning you read, I think in answer
11 to Commissioner Mann, from the Board's waybill analysis
12 introduction. I do not know if you read it all;
13 I think you paraphrased it.

14 I am reading from the 1959 Board's waybill
15 analysis, and it says, in the last sentence of the
16 second paragraph:

17 "Waybills involving western carload OCS,
18 switching traffic, traffic originating at
19 rail points outside of Canada, rail-lake,
20 rail water, rail and ocean rail waybills
21 were excluded".

22 Now, first dealing with the traffic
23 originating at rail points outside of Canada. Has
24 that matter been raised as to the amount that would
25 be involved in that in relation to these proceedings
26 previous to the calculations being introduced by Mr.
27 Mauro?



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2 A. Yes, Mr. Sinclair, I think it was dis-
3 cussed or covered by Mr. Frawley in his cross-examination
4 of Mr. Roberts when he pointed out that it would
5 appear that the revenue from this traffic would not
6 be included in this study.

7 Q. That is the study shown in --- ?

8 A. Exhibit 162.

9 Q. So, this next item -- how much do you
10 say?

11 A. I believe the figure Mr. Roberts put in
12 was approximately \$4 million or slightly less than
13 than \$4 million.

14 Q. My note is that that is at page 19 --
15 I do not seem to have a note of the actual page where
16 that evidence takes place but I am sure if the
17 Commission wishes to have it it could be found. Now,
18 let me group the other one that would be involved as
19 an exclusion from Exhibit 162 but, I suggest, included
20 in total rail revenue railway freight and referred to
21 in what I have just read to you from the Board's Waybill
22 Analysis of 1959. That would be rail-lake-rail,
23 water-rail and ocean-rail waybill that would be excluded.
24 Taking that group, would they affect the figure shown on
25 Exhibit 162 and would they affect that \$75 million
26 calculation of Mr. Mauro on traffic arising from that
27 type of traffic?

28 A. Yes, they would although I really have
29 not got a figure I can put on it. I mean, I have
30 not anything to indicate the exact amount of that



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2 revenue, but it would be quite substantial. We handle
3 a fairly important tonnage of rail-lake-rail and water
4 traffic during the year.

5 Q. And the other one was --- ?

6 A. And also there is some rail-ocean.

7 Q. Or ocean-rail?

8 A. Yes, it works both ways, but more rail-
9 ocean, I should say.

10 Q. You mentioned the Board indicated it
11 was something less than one per cent in Mr. Mauro's
12 calculation to arrive at a figure of his so-called
13 short fall of \$75 million; what multiplying factor did he
14 use?

15 A. Well, he used 1.00.

16 Q. And in your discussions with Commissioner
17 Mann this morning you indicated a figure of somewhat
18 lower than that, did you not?

19 A. I said I think it would be somewhat
20 lower although I could not say what it was. I imagine
21 something -- I thought there may be a range of 10 per
22 cent to 15 per cent.

23 Q. Would you mean your one per cent would be
24 nine or in the range of 9/10ths of one per cent rather
25 than one per cent? In other words, you multiply it
26 by one which would give you necessarily a factor over
27 and above what the Board's Waybill Study was meant to
28 give?

29 A. Yes, I think when I was answering Mr.
30 Mauro I said there would be a swing in the range.



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2 Q. Now, Mr. Edsforth, this, as you have
3 indicated and the Board has stated, is a one per cent
4 waybill, one per cent sample of waybills, and you indicated
5 this was not a one per cent sample of revenue, it was
6 only a one per cent sample in any event. Now, in
7 view of the fact it is a one per cent sample of waybill,
8 would this cause any margin of error?

9 A. As to waybills or as to revenue?

10 Q. Take them whichever way you want, I
11 will do both with you and take waybills first.

12 A. Well, if the sample is properly drawn
13 and the waybills 1 or ending in 01 are reported it is
14 a one per cent sample of the waybills for the traffic
15 covered by this study with the exception the Board has
16 noted.

17 Q. I am asking you a question somewhat
18 different from that; I am asking you as to the fact of
19 it being a one per cent sample of, if you like, certain
20 carload waybills. Would this factor have an effect
21 upon the calculation made by taking a one per cent
22 sample and colloquially extrapolating it or blowing it
23 up?

24 A. It would, of course, and it would so
25 particularly as to revenue because the revenue affected
26 depends on the type of traffic that these particular
27 waybills cover. That, of course, can vary quite a
28 bit.

29 Q. Let me see if I understand you: what
30 you are saying is that it would particularly in respect



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2 of the revenues because these are carloads and carloads
3 have to be translated into revenue, and therefore you
4 would have the multiplying factor in the margin of error
5 error that might be worked out statistically?

6 A. I think it would be, but I do not know
7 that I can do it.

8 COMMISSIONER MANN: There is an American
9 publication put out by the ICC called "Waybill Studies
10 and Uses" and I think they give you a standard error in
11 there.

12 MR. SINCLAIR: Well, people can take a
13 standard error -- if I may answer this -- in respect of
14 the one per cent sample, and, of course, it is based on
15 the population. However, these formulae, in my respect-
16 ful submission, have to depend very largely on whether
17 not only the sample is random but also that the
18 sample works within a random operating population.
19 Of course, this is a very interesting difficulty that
20 is presented to the statistician when he meets freight
21 traffic which does not operate. It is quite easy then
22 counting and taking a sample of the population of Canada
23 because after all people are people and if you are
24 going to count noses you can do certain things. But,
25 straight traffic does not lend itself so nicely to those
26 ramifications and a formula that would, for instance,
27 suggest that the margin of error is based on the square
28 root, the reciprocal of the square root applied to the
29 total population in this statistic that is being
30 measured would, in my respectful submission, be open to



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2 very, very serious doubt although the statistician
3 who would approach it without a knowledge of traffic
4 movements and without a specific knowledge of traffic
5 movements of one railroad and applying what I would
6 call normal statistical procedures might very well
7 say, "Take that; it is good enough for what we are
8 going to do."

9 COMMISSIONER MANN: Do you think then the
10 waybill section of the ICC is wrong when they make
11 this flat statement?

12 MR. SINCLAIR: I think they are almost like --
13 pardon me for saying this -- they choose their words
14 very carefully and these people say these samples
15 are to be used for "this" then adopt a standard of
16 error "that". Then, what they are in effect saying
17 to you, with respect, is that you can do that if you
18 use it -- for instance, trends, or as the witness said,
19 values of traffic, but if you are going to use it for
20 something different than that, that is an extrapolation
21 of revenues, that is, I say, different statistically,
22 and I must say I do not understand them but other
23 things happen. Perhaps Commissioner Gobeil would be
24 able to put the words around this much better than I would
25 but this is what I would say in answer to that question.
26 I hope I have answered it.

27 COMMISSIONER MANN: I think so. I understand
28 that, I can take this booklet of the ICC called "Waybill
29 Studies and Uses" and use the one per cent sample which
30 is the standard error calculated for examples for that



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2 zone.

3 MR. SINCLAIR: That is what I would say,
4 trends and pattern of traffic but I would say you
5 cannot use that if you are going to extrapolate a
6 revenue.

7 COMMISSIONER MANN: I understand, thank
8 you very much.

9 MR. SINCLAIR: Q. If you have a different
10 view, Mr. Edsforth, I do not pretend to understand this
11 completely and if you have a different view ---

12 A. With respect, I think you left me behind
13 quite a while ago.

14 Q. I would suggest that this might very well
15 be referred to in questions to somebody like Dr. Gobeil.
16 Now, I think that is all I wish to ask you about con-
17 cerning Mr. Mauro's cross-examination in relation to
18 Exhibit 162.

19 I now ask you to recall his discussion with
20 you on what is referred to as trick mileage or construc-
21 tive mileage and his suggestion of the railway having,
22 by meeting the short run mileage of a competing road
23 carrier given two shippers, in effect, constructive
24 mileage or trick mileage. You recall that line of
25 questioning?

26 A. Yes, I remember it.

27 Q. There was one further thing before I
28 ask that question. I should say to Commissioner Mann
29 that if you take that standard of error, I have in mind
30 a figure which I will show you, I think it is well to



1
2 keep in mind if you take the -- for instance, you have
3 four million cars and you take the reciprocal of the
4 square root of this and you work it out, it will give
5 you 2,000, one over 2,000, and you will come up with a
6 standard error of .05. I suggest that that very
7 figure indicates on the extrapolation .05 standard of
8 error, points out the disability of extrapolating
9 that for revenue.

10 Now, Mr. Edsforth, I was asking you about
11 the constructive or trick mileages in relation to
12 railways extending to shippers the short run mileage
13 of a competing rail carrier and at page 19543,
14 according to my note, there was some discussion between
15 Commissioner Balch and yourself in relation to the
16 evidence that you had been giving in answer to my
17 friend Mr. Mauro's question in relation to the
18 Canadian National meeting Canadian Pacific in fixing
19 the rate from Vancouver to Calgary. Mr. Mauro said at
20 page 19543:

21 "Would you clarify the difference between
22 that and the constructive mileage from
23 the head of the lakes to Winnipeg, the
24 movement was some 400 miles and the rate
25 was on a basis of 300 some odd miles --
26 290."

27 Now, that question unfortunately according to the
28 transcript I have is not answered and I think that you
29 should answer it. It arises out of a question put by
30 a member of the Commission and Mr. Mauro put to you to



1
2 take the old terminal rates to Fort William or what
3 was colloquially known as the Winnipeg constructive
4 miles that went away, as a result of the first
5 Turgeon Commission equalized class rate scale. Now,
6 would you compare that with the situation of the
7 Calgary-Vancouver, Vancouver-Calgary movement via
8 Canadian National Railways using the C.P.R. mileage?

9 A. Well, what Mr. Mauro was referring to
10 there was the old constructive mileage that was used
11 in making rates from Fort William to points west of
12 Fort William and the rates at that time were calculated
13 by using what we called a constructive mileage of 290
14 miles Fort William to Winnipeg as against the actual
15 distance of 420 miles. Now, that was a constructive
16 mileage in this sense that it was not possible to handle
17 traffic from Fort William to Winnipeg by any route
18 at all at 290 miles. In other words, 420 was the
19 shortest rail distance. Now, the difference between
20 that and the situation between Vancouver and Calgary is
21 that there is a mileage over which traffic can be moved
22 over the line of one railway, CP, from Vancouver to
23 Calgary, which is I think 641 miles -- I guess it is
24 642 miles. That is the distinction between them.

25 Q. You said in your evidence in answering
26 Mr. Mauro's question that by the Canadian National
27 giving the CPR mileage to Calgary they were not giving
28 the shipper anything. If they had applied a rate
29 of 290 miles to Fort William from Winnipeg would they
30 be giving the shipper something?



1
2 A. Well, he would be getting -- the shipper
3 would be getting the benefit of a lower mileage than
4 could be obtained from any route over which the traffic
5 could move.

6 Q. Now, Mr. Mauro then continued to discuss
7 with you the relation -- this is at page 19564 to
8 19567 -- the relationship arising from your example
9 of Heatburg, Alberta, and the suggestion he was making
10 to you was that by constructing the rate to Heatburg,
11 Alberta, over the Canadian National via Edmonton and
12 south to Heatburg rather than adopting the Canadian
13 Pacific mileage to Calgary plus the factor north or,
14 in other words, that it was an intermediate point to
15 Calgary between Calgary and Edmonton yet was paying a
16 higher rate than could be secured on a Vancouver-
17 Calgary shipment. Do you remember that?

18 A. I remember that, yes.

19 Q. Now, is the shipper under the existing
20 freight rate structure denied the rate that can be
21 made by working the rate level over an existing junction
22 point to give the lowest level of rates? In other
23 words, could the rate to Heatburg be constructed CP to
24 Calgary plus CN Calgary to Heatburg?

25 A. Oh, yes, it could.

26 Q. That is to say, a combination of the
27 rate Vancouver to Calgary plus the rate Calgary to
28 Heatburg?

29 A. That, of course, is permissible under
30 the aggregate rule if it produces a lower charge than



1
2 the single line distance of Canadian National.

3 Q. That is it, so if you take another
4 example, for instance, a shorter distance north of
5 Calgary and I think Mr. Stechishin put one in, Hubalta,
6 I think it is six miles north of the limits.

7 A. Hubalta?

8 Q. Yes.

9 A. I think I recall something about that.

10 Q. Would then the shipper from Vancouver
11 to Hubalta be able to move it by Canadian National at
12 a combination lower than the single line rate?
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2 A. Yes, he would.

3 Q. Now, then, how would you describe
4 Manitoba's proposal of using the Calgary mileage on
5 Canadian Pacific in constructing the rate to Heatburg
6 not on the basis of combination, but on the basis of
7 if it were a single through factor rate?

8 A. Well, in that event it would be intro-
9 ducing the principle of applying an interline rate or
10 making a rate on an interline basis between a station
11 on one line and a local point on its own line; in
12 other words, you would be applying the interline basis
13 as against the single line distance of the carrier
14 that terminated the traffic.

15 Q. You said a point on its own line to a
16 local point on its own line?

17 A. Yes.

18 Q. Do you mean a competitive point?

19 A. A competitive point, yes.

20 Q. Has that principle been adopted, of
21 applying an interline rate on a single factor basis
22 with something over for the interchange, has that been
23 applied anywhere you know of between a competitive
24 point and a local point?

25 A. You mean in Canada?

26 Q. Yes.

27 A. Offhand I can't recall any. I couldn't
28 be sure; I don't know of any.

29 Q. If the railways were forced to do that
30 what would the effect be? If they were forced to



1
2 publish from a competitive point to a local point on
3 the basis of an interline rate worked on a single
4 line factor plus for the interchange?

5 A. Well, of course, it would naturally
6 reduce the rates where the interline combination of
7 mileages made a lower charge, and following from that
8 would be a reduction in the revenue.

9 Q. Yes?

10 A. That must follow.

11 Q. Would it have anything to do with
12 whether a railway under that proposal was short
13 hauling itself in the way you have been describing?

14 A. They would not necessarily have to short
15 haul themselves. In other words, they could handle
16 the traffic all the way but they would receive less
17 for doing it than their own mileage would warrant.

18 Q. At page 19594, Mr. Mauro was dealing
19 with the question of the Manitoba proposal as an alter-
20 native to horizontal percentage increases -- what has
21 been described as the split formula: so much per cent
22 and so much cents per 100 pounds?

23 A. Yes.

24 Q. And to put this in context I will read
25 the following questions from page 19594:

26 "Q. With due respect I say the facts and
27 figures show that our proposal will not
28 intensify it to any extent above the
29 present horizontal percentage increases.

30 "A. Well, I have not seen them.



1
2 "Q. We have discussed Montreal-Toronto this
3 morning?

4 "A. I say there is a difference there under your
5 proposal.

6 "This much I am sure of, Mr. Mauro,
7 from examining your proposal, that our revenue
8 would not be properly protected by it. I
9 am quite certain of that. I have checked it
10 very carefully and tested it to see. For
11 one thing, the modification which you have
12 put in -- that is sort of a built-in
13 attrition right off the bat, because there
14 you modify the effect of your 10 per cent
15 plus $3\frac{1}{2}$, or $4\frac{1}{2}$, whichever you like to make
16 it and that modification is money which
17 you are not going to get."

18 Now, this built-in attrition that operates, in your
19 phrase, "right off the bat" which you have testified to,
20 how much money would that be?

21 A. Well, I couldn't give you any precise
22 figure on that, Mr. Sinclair. I did look at it in
23 relation to some of the traffic that we handled in 1959,
24 some of the large movements which move at the lower
25 rates. That would be the low value and short haul
26 traffic. Of course, I would not say I pretend to have
27 it all, but the figures that I developed indicated to
28 me that the difference between the application of the
29 full formula -- and when I say that I mean the 10 per
30 cent plus $4\frac{1}{2}$ cents per 100 pounds based on Canadian



1
2 Pacific needs -- and the modification which would be
3 afforded as an increase, the difference on that traffic
4 was approximately \$4 million.

5 Q. That is, that the modification introduced
6 by Manitoba to the straight split formula resulted in,
7 on part of the traffic, a revenue loss of \$4 million?

8 A. Yes, because that is revenue that you
9 would not get because the formula is calculated, as I
10 understand it, on the basis of applying $4\frac{1}{2}$ cents to
11 your total tonnage and 10 per cent to your total revenue
12 on the traffic subject to increase, and therefore to the
13 extent you have to modify that, where you do modify
14 it for the short haul traffic, that means you are
15 not going to get that contribution. There is a short
16 fall.

17 MR. MAURO: Will Mr. Edsforth put those
18 figures on the record so we could check them?

19 MR. SINCLAIR: We will give you the basis.

20 Q. Mr. Edsforth, in Manitoba's proposal
21 they say the general rate increase split 10 per cent and
22 $3\frac{1}{2}$ cents -- would it have a material effect if the
23 formula instead of being expressed that way was expressed
24 as an increase of x number of cents per 100 pounds and
25 then a percentage increase?

26 A. Oh, yes, it would make quite a difference
27 to the increase because you would then put the increase
28 for 100 pounds on your base rate and apply the per-
29 centage. It would be compounding.

30 Q. Is there any magic in putting the per cent



1
2 before the cents?

3 A. I don't know about that. I don't think
4 that was ever suggested seriously, though.

5 Q. It is another alternative to horizontal
6 percentage increases?

7 A. I suppose you might consider it that. I
8 think the calculation would have to be somewhat different
9 again.

10 Q. I wanted to turn your mind to the evidence
11 you gave at page 19622. This is a point that might be
12 clarified: this is where you were dealing with the
13 question of internal market competition with my friend
14 Mr. Frawley the day before yesterday, and he was
15 dealing with the question that arose from your answers
16 in relationship to the Calgary procedure in the Edmonton
17 market and the Hamilton producer, and the introduction
18 of truck competition, and the movement from Calgary
19 then being made by truck at 35 cents a hundred instead
20 of the previous rate at 50 cents. In other words, a
21 reduction in the transportation charges being paid by the
22 Calgary producer in the Edmonton market of 15 cents a
23 hundred?

24 A. Yes.

25 Q. And your answer at the bottom of page 19621,
26 in answer to Commissioner Anscomb was this -- and he had
27 asked you what you meant:

28 "A. All I mean is we would give the break to the
29 man at Hamilton, adjust to reflect the
30 changed conditions. In other words, let



1
2 us say, for instance, that the man from
3 Calgary to Edmonton had been shipping
4 by rail to Edmonton at 50 cents, and he
5 gets a motor carrier rate of 35 cents,
6 a 15-cent reduction, then the man at
7 Hamilton says, 'I will try to compete
8 here but now this man has a 15-cent
9 advantage on the transportation cost which
10 puts me out of line.' Then we should
11 make an adjustment from Hamilton, we
12 may take 15 cents off the rate.

13 "The Witness: This is the relative charge went
14 down 15 cents the same as from Hamilton
15 and Calgary.

16 "Commissioner Mann: You do this to maintain
17 the differential in dollars and cents between
18 the two producers?

19 "A. Yes, that might be one way. I do not say
20 that is exactly the way.

21 "Commissioner Mann: That would be the goal that
22 you would have in mind?

23 "The Witness: Yes."

24 My question to you is, why would you
25 have that goal in mind in light of the particular cir-
26 cumstances there?

27 A. Well, what I would have in mind would
28 really be to meet carrier competition because that is
29 what changed the situation. You have two producers
30 competing at different points both shipping by rail at



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2 relative rates. Then carrier competition comes in
3 and changes the rate from one shipping point -- in this
4 case, Calgary. The railways are no longer handling
5 it, so then the genesis of the change is carrier com-
6 petition. So, you might -- and I don't say you would
7 -- it may not be necessary to, but you might make a
8 reduction in the rail rate from the other point to meet
9 what had taken place in the common carrier rate reduc-
10 tion.

11 Q. Was your goal to meet competition that
12 had been introduced -- is that what your goal is?

13 A. To meet the competition of the other
14 carrier?

15 Q. Yes.

16 A. Yes.

17 Q. The motor carrier?

18 A. The motor carrier, yes.

19 Q. We sometimes have heard that it should
20 be a goal of general revenue cases to maintain the
21 differential in cents between shippers in different
22 areas or localities or having different distances from
23 the market?

24 A. Yes.

25 Q. In your opinion is this comparable to
26 the situation which you were describing here at page
27 19622?

28 A. Well, now, it is not because in that
29 instance that you have mentioned, this is to endeavour
30 to modify or temper horizontal percentage increases or



1
2 rate increases, to preserve differentials... That, it
3 seems to me, is taking the right end of the field of
4 internal market competition because it is trying to
5 preserve differences between rail rates, whereas the
6 situation I discussed with Mr. Commissioner Mann
7 was not that. It was a case of the rail meeting
8 motor carrier.

9 MR. SINCLAIR: Thank you, Mr. Edsforth,
10 and thank you, Mr. Chairman and members of the
11 Commission. That is all the questions I have.

12 There are a number of items: we did try to
13 get the calculations that you asked for, Mr. Commissioner
14 Mann, this morning, and we will press forward with that
15 and give it to you when we can.

16 THE CHAIRMAN: I think we can thank you, Mr.
17 Edsforth. We know how vitally and sincerely you are
18 interested in our problems, and while there may be,
19 as there are, differences of opinion as to how to
20 solve them, we know how sincere you are and we thank
21 you.

22 MR. EDSFORTH: Thank you very much, Mr.
23 Chairman.

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25 ---Short recess.
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2 THE CHAIRMAN: Order, please. Mr. McDonald?
3 MR. McDONALD: Mr. Chairman, before starting
4 the cross-examination of Mr. Hart, I wish to give some
5 information that was requested by Mr. Smith in his
6 cross-examination of Mr. Hart at the bottom of page
7 18608 and top of page 18609 in volume 111, where he
8 is speaking about the Maritime Freight Rates Act, and
9 Mr. Smith said:
10 "I wonder if you could give the Commission some
11 indication of how the actual amount of the
12 subsidy is determined insofar as Canadian
13 National is concerned; just the mechanics of
14 determination"
15 And Mr. Hart said:
16 "I think I had better say I have not got that
17 information here. We will produce that".
18 I have that information now, and if it is all
19 right with the Commission I will put that into the
20 record now.
21 THE CHAIRMAN: That will be fine.
22 MR. McDONALD: Memorandum on Method of
23 determining the amount of subsidy due to Canadian
24 National Railways under the Maritime Freight Rates Act.
25 This subsidy is claimed on the basis of the
26 actual amount by which the railway has reduced charges
27 to shippers, within the Maritimes and Newfoundland.
28 To calculate the amount of the subsidy the
29 revenue arising in the Maritimes and Newfoundland must
30 be analyzed in order to ascertain how much of it has



1
2 been reduced. Since the reduction covers all shipments
3 made within the Maritimes, the outgoing shipments either
4 through ocean ports or westbound by rail or lake, these
5 types of shipments must be summarized.

6 The reduced freight charges shown on the
7 individual waybills, which were made up at the time of
8 shipment, are listed on accounting machines according to
9 originating province and destination stations. The
10 amounts to which the subsidy applies are obtained from
11 these listings. Calculations are made to determine the
12 difference between these freight charges and the amounts
13 that would have applied if the rates had not been
14 reduced by the Maritime Freight Rates Act. This
15 difference between the so-called "normal" tolls and the
16 tolls in the tariffs established under the Act is
17 claimed each month from the government as a subsidy.

18 The listing of individual waybills is a
19 lengthy procedure, and to enable the Canadian National
20 Railways to recover their loss arising from reduced
21 charges as soon as possible after it occurs, an estimate
22 is submitted based on past experience and the current
23 volume of traffic. This monthly estimate of the subsidy
24 due is adjusted by the difference between the estimated
25 and actual subsidy from the previous month and forms
26 the basis of the claim.

27 The monthly claims are checked and counter-
28 signed by the government auditors, who also verify that
29 over a period of time the estimated and actual
30 subsidies are equal.



Alexander Hendry HART, recalled

MR. McDONALD: Mr. Hart is now ready for cross-examination.

CROSS-EXAMINATION BY MR. HUME:

Q. My learned friend has been kind enough to permit me to proceed with a short cross-examination. Mr. Hart, I have about six points to discuss with you in connection with your brief. I will try to make my questions short. I hope that the answers will be equally short, and that will save time.

By the score sheet which Mr. McDonald has handed me, I think you are indicated as being a knowledgeable witness with respect to most of my questions, and if I get into an area that I should not be asking you, you might just so indicate to me.

Mr. Hart, my first point arises in the first page of your brief, the introduction, where you point out, I think, quite frankly, that when railways have a monopoly in the transportation of large segments of traffic, it was possible to meet increased expenses by raising the price of rail services. And you go on to say:

"This method of relief has grown more and more inadequate as the areas and intensity of competition have broadened. In addition the effectiveness of such competition has



1
2 forced the railways to make vast expenditures
3 for modernization and upgrading of plant and
4 equipment in order to remain competitive with
5 the trucks in the national transportation
6 market".

7 The quotation, Mr. Hart, seems to point out
8 that while this has created a problem for the Canadian
9 National Railways in the difficulties of obtaining
10 revenue, and in the necessity of modernizing the plant,
11 it has brought large benefits to the shippers of
12 Canada -- the people of Canada. Would you agree with
13 that statement, that the impact of this competition,
14 while creating these problems which you point out, on
15 the other side of the coin produced large benefits to
16 the shippers of Canada?

17 A. Well, in a sense I think perhaps that
18 is a fair statement, Mr. Hume. But in addition by
19 division of the amount of traffic available, you do
20 lose some of the advantages and the cost-saving
21 devices of handling the large amount by one agency.

22 So, I think that I cannot sort of weigh one
23 against the other, but I think there has been a
24 tendency on the part of transportation of competition
25 coming in to activate -- that is, a search to produce
26 lower costs in one sense. But, on the other side,
27 if railroads still had all the traffic they once
28 carried, the mass of traffic, that the costs might
29 have been even lower.

30 Q. Would you think that if competition



1
2 had not interfered, that the railroads would have put
3 in the extensive pick-up and delivery service they now
4 have? Would you think this is a possibility, or would
5 you agree that is a direct result of having to compete
6 with trucks?

7 A. Yes, it is a result.

8 Q. You have speeded up your movements of
9 l.c.l. freight in the last 25 years?

10 A. Yes, for many reasons, not only for
11 competition. We certainly have, of course.

12 Q. There are advantages -- in other words,
13 if I understand your point correctly, there are
14 advantages to the shipper. Your point is that if
15 competition had not existed, and there was one
16 Canadian National Railway in Canada, the overall
17 saving to the public might have been greater?

18 A. Might have been, and I throw it out
19 only as a possibility, but I would say this: that I
20 believe competition is a good thing. I think it is
21 a thing that works well for both the railroads and
22 for the highway operators. That they are in
23 competition is an incentive towards efficiency.

24 Q. And they are both in competition with
25 the airlines, the pipelines, and the ships, and so
26 on.

27 Would you look at page 3 -- the first
28 complete sentence on page 3:

29 "The clear fact emerges that despite its
30 efforts Canadian National's share of the



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total Canadian transportation market is declining".

My question to you is -- declining in favour of whom? Your competitive railway; other means of transportation? I am just not quite clear on that, Mr. Hart.

A. I think what we are really trying to say is that there is a transportation market, and certainly before trucks and before pipelines came along, obviously the proportion of inland traffic carried by the railroads was very high in the beginning of highway transportation and becoming more and more intense. But in competition with the rails, they started to get a larger piece of the transportation pie, and so, too, for the pipelines. I am not speaking there -- really we are not speaking vis-a-vis our rail competitor. I would almost say we are speaking in general rail versus the other forms of transportation.

Q. What is your situation vis-a-vis your rail competitor?

A. This is a point that I will say, frankly, that our statistics are not good enough for me to stand on in any way shape or form to make a positive statement.

A statement of faith, perhaps, is that we are doing a little better than the CPR are, and I hope we are, and we will continue to try to be. I realize I cannot by way of an actual figure give you anything worth while.



1
2 Q. My third point arises from something
3 on page 8. Turning to the bottom of page 8 the last
4 complete paragraph. You say:

5 "However, the rapid growth and the improved
6 efficiency of the highway transport
7 industry have more than offset the action
8 taken by the railways in their attempt to
9 retain their relative share of the national
10 transportation market".

11 My question is what actions? Are you
12 referring to competitive rates, agreed charges -- that
13 type of thing?

14 A. Yes, that type of thing, plus the very
15 physical changes that were mentioned earlier: the
16 question of speed-up in service, and the various new
17 installations that we have made -- the total of things
18 that we have done physically and by way of rate making.

19 Q. Mr. Hart, would you be good enough to
20 turn to page 10. There is another sentence there, and
21 would you clarify it for me, and possibly this would
22 also assist the Commission.

23 You point out that all-rail service is not
24 similar to highway; it is inferior in some situations,
25 and superior in others.

26 You end up in that paragraph with:

27 "It should be pointed out that when the
28 rail carriers as a result of improved
29 statistical information are in a position
30 to react more quickly to competitive forces,



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the solution to this differential problem
will be relatively simpler".

My question simply is why? What do you mean
by "will be able to react more quickly to competitive
forces"?

A. At the moment I would say that our
statistical information, as far as our total market
in any commodity -- our percentage of market vis-a-vis
other forms of transportation; our percentage of
market vis-a-vis our rail competitor is not sufficiently
good for us to quickly react and set a rate. For
instance, to discuss this purely, say, between the
highway competitor and the railroad competitor, that
if you know what the market is between two points in,
say, a commodity and your rate is not -- you know,
that you are not getting what you consider at least
to be a proper share or the share that you have
determined by way of your estimates that you should
have in that market, -- then you, by speeding up your
service, by rate action, or what have you, you make some
change in the complex of service and price to your
shipper, you can quickly see if you have the proper
statistical information flowing in, whether you are
getting -- whether there is any real reaction to what
you have done. You get this information quickly and
you can make such other changes as are necessary
equally quickly.

Q. That implies that you are not able to
move now as quickly as you would like?



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A. That is true.

Q. In a competitive situation, apart from something that in a transportation market is a brand new object, most things you move are covered by normal rates?

A. Yes.

Q. It was my impression that the way the railways would react to a competitive situation -- that if you suddenly discovered you were not moving this article because the highway operator has lowered the rate, that you have no delays; you can immediately quote a competitive rate as long as it complies with the rule that it should be compensatory? Is this not so?

A. I am not making any suggestion that that is the type of delay that I am discussing here. It is an understanding of market delay; that it is a failure, an inability for us to see quickly what is happening as a result of service speed-up, service change, price change, to see what the actual turn-over in the market is. Are we getting more; are we losing more? Is it something we should go after service-wise, rather than rate-wise?

It is this quick understanding of what comes out of those actions you take that we are lacking. It has nothing to do with whether or not we can file competitive rates in three days or not.

Q. If your highway competitor is to remain independent and compete with you, he should also



1
2 develop his statistical information and develop a
3 department big enough to do so to give him the same
4 benefits?

5 A. Oh yes, very much so. I sometimes
6 suspect that they are a little better off than we are
7 because they are smaller operations and perhaps can
8 zero-in and understand these narrow markets they work
9 in a lot quicker than we can.

10 Q. I suppose you would agree this would not
11 be as effective or important in that area where, for
12 example, a commodity moves by truck, because it requires
13 less crating? I am trying to think of a situation where
14 price is not the factor.

15 A. There are lots of other things, but I
16 do not think these are peculiar to the highway
17 competitor. If you say, using your example, because of
18 crating or packaging that it lends itself to truck
19 handling, well, the sort of things open to us are,
20 of course, to go it by piggyback, DF cars. There are
21 innumerable sorts of things we might be able to do
22 without changing a rate at all to recapture some or
23 all of the traffic we are discussing.

24 Q. If you would just turn the page, to
25 carry along with what we are discussing, in the
26 second paragraph you point out:

27 "To compete effectively with other modes of
28 transportation, railway management must have
29 the discretionary power to apply its best
30 judgment to the situation at hand, to



determine the price of its service, and the conditions under which service is offered".

You point out you must have the utmost flexibility. I think you have already answered me by what you said a moment ago. It is my understanding you have about as flexible a system now as you require in connection with meeting competition, in quoting rates, because in fact you can quote a competitive rate by telephone?

A. No, we cannot quote a competitive rate by telephone. No, we cannot.

Q. You cannot?

A. No.

Q. Mr. Edsforth, in his evidence before the Turgeon Commission -- and I can find the reference -- in answering a question I put to him about ten years ago, he said the Canadian Pacific could quote a competitive rate by telephone. Is there any reason you could not do that?

A. If the Canadian Pacific can do it, we can do it. But, if it can be done, I do not know of it, because our rates must be filed.

Q. If somebody with discretion to decide these things in your department is telephoned by a shipper who says, "I just had a quote from Hume Transport Company of so many dollars per hundred from here to there", could you not quote him the same rate or a lower rate?

A. Yes. We could say we will file such



1
2 a rate, but there are certain regulatory steps to be
3 taken before that rate becomes productive. We cannot
4 do it like a man who is in -- let us take an area that
5 has no rate regulation by truck --

6 Q. An Ontario trucker?

7 A. Say, in Ontario or one of the other
8 provinces, where effectively the truck driver, to
9 put at its simplest, comes in and says, "I will take
10 that business for \$8.00 a ton", or what have you.
11 This cannot be done by us. I say we have not the
12 same freedom or flexibility. We also have to consider
13 all the regulatory requirements under -- I think I am
14 right -- section 334 of the Act before we can quote
15 such a rate.

16 Q. To take your example in the inter-city
17 movement, there are not many trucking companies where
18 the truck driver quotes the rate?

19 A. I was using it in its simplest form.

20 Q. You can advise the shipper, then, who
21 telephones you that you will make an attempt to quote
22 this rate. My next question is you can file that rate
23 the same day?

24 A. Yes.

25 Q. Of the tens of thousands of competitive
26 rates on the books, how many times have you been
27 bothered by having to go through a procedure before
28 the rate became effective?

29 A. Not frequently. The Board of Transport
30 Commissioners has not used the power in section 334



1
2 to any extent at all. Actually, I think it is less
3 than a dozen times. I am certain of that, and it may
4 be considerably less.

5 Q. Less than a dozen times out of several
6 tens of thousands?

7 A. Out of a great number. But this is not
8 the difficulty or the point we are trying to put
9 across here. Our difficulty is that when you have a
10 section of this sort facing you, you must on either
11 rate be prepared for the Board to ask you; whether
12 they do or not, you must be prepared.

13 So, the net result is that any of this
14 information that takes you time to produce, or perhaps
15 some of it may not be possible to be produced, but
16 any of this information that has to be prepared for a
17 request under that section is a delay that works
18 against you in the competitive field.

19 Q. Mr. Hart, what you are saying is, as
20 I understand it, when you do quote a rate in the
21 situation that I suggested, where the shipper calls
22 you as the responsible official, and you decide you
23 are going to meet this rate, in each of those cases
24 do you prepare this information just in the chance
25 the Board might call for it?

26 A. In practically every case we have the
27 information that we can produce. And there are some
28 of these things that in some instances are just beyond
29 our ability to produce. There are several in several
30 of the subsections that are in many cases beyond our



1
2 ability to find out.

3 Q. As a practical matter, do I understand
4 -- in the next paragraph, you go on to say:

5 "The shipper who has a ready alternative
6 cannot be expected to wait patiently upon
7 any regulatory formalities that must be
8 satisfied before the railway can change its
9 rate or service pattern ..."

10 I suggest to you, Mr. Hart, it has been my
11 understanding certainly since the evidence of the
12 Turgeon Commission that the shipper does not have to
13 wait patiently. Maybe he waits half a day. But that
14 implies to me that the shipper sits back and waits
15 a period of time while you go through some regulatory
16 procedure. That is not the fact?

17 A. In some of the instances this is the
18 fact. Let us be perfectly clear: this is the fact
19 that when these rates are to be quoted we attempt to
20 find out each of the pieces of information that we
21 feel are available. In some instances, you are
22 perfectly right; it might take two or three hours;
23 it might take an hour. In some instances, it may take
24 a great deal longer than that.

25 Q. But, in some cases it does not take
26 as long as this paragraph indicates: that the shipper
27 who has a ready alternative, before you can tell him
28 definitely whether or not you will take his freight,
29 he will have to wait ---

30 A. I say this, Mr. Hume. In a competitive



1
2 market, a shipper is not interested in waiting 30
3 minuses, if he has a man ready to move the traffic,
4 and is quite prepared to say, I will move it for this
5 amount, and I will deliver it for you tomorrow.

6 This is a hungry, hard competitive business
7 that we are working with, and the shipper has what he
8 wants there. So, he is not terribly sympathetic for
9 any difficulty, even if it is only a 30 minute
10 difficulty.

11 Q. He might lose one load, but if he is
12 shipping every day, the loss is infinitesimal over a
13 year?

14 A. If he is shipping one load -- but,
15 nevertheless, he might say, "All right. If you cannot
16 come along, I am going to give it to this trucker who is
17 able to move this stuff for me today, when I want it
18 moved. And he is going to have my business for the
19 next "X" number of days or months -- or, I do not see
20 any reason why I should ever go back to the railways".

21 Q. You suggest at the bottom of this
22 paragraph, which I presume is a suggested amendment to
23 section 334, that first of all the rates in effect
24 should be made known to the shipping public. This is
25 your suggestion. And, secondly, the rates should not
26 go below variable cost.

27 Does this not imply you are going to have to
28 do the same amount of work to justify this rate, if
29 the Board questions you?

30 A. It does not. My very point here is that



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if you have a list of things the Board itself may

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ask, and certainly our own people are bound to take

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all the things that are in section 334 and try to find

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them out.

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2 Our proposal is that the Board be given power to ask
3 such things as they deem relevant. Now, this means
4 that they will not ask you for everything that is
5 presently listed in section 334. I might say within
6 my knowledge, and this is perhaps not all inclusive
7 by any manner of means, but I think I am right by
8 saying that every time the Board has asked us about
9 any of our rates under section 334 they have asked us
10 to comply with all the requirements of section 334(2)
11 I think.

12 Q. You say that is a dozen times in tens
13 of thousands.

14 A. Yes, but nevertheless, we are asked for
15 all these things so this is the compelling force, we
16 feel, to do it.

17 Q. Just to carry on so we can finish with
18 that, on page 72 I think it is repeated, if you would
19 not mind turning with me to page 72. I think this is
20 a point you make, you suggest the same three requirements
21 -- reading from the first complete paragraph where you
22 point out that section 334 imposes needless restrictions
23 and so on, you point out that the rates are not lower
24 than necessary to meet competition. Then you say:

25 "The presence of these three requirements in
26 the statute have not caused any extreme
27 difficulty, nevertheless, it is considered that
28 the additional detailed information which the
29 Board may require should be eliminated ---"

30 Then, in connection with that, it may require



1
2 this a dozen or so times over the last years?

3 A. Yes, in actual fact but not in the
4 number of times we have produced this type of
5 information. I hate to keep repeating this but I
6 think we are on common ground.

7 Q. Repeat it as often as you like. It
8 would seem to me that if you have only been called
9 upon by the Board a dozen or so times it would be far
10 better not to bother with it and just bother with the
11 odd times that they do every two or three months instead
12 of having it ready expecting them to call on you when
13 they do not. Is this something that is unreasonable?

14 A. It is not the course we are following
15 but it is a course we would like to follow and that is
16 why we ask for this change in legislation.

17 Q. Now, if you would be good enough to
18 look at the bottom of page 11 in your requirement (c):

19 "The rates should not be lower than necessary
20 to meet competition".

21 You make the point in your brief somewhere
22 or other that it is not the position of the Canadian
23 National to put the independent ~~not~~ trucker out of
24 business or interfere with him.

25 A. That is right.

26 Q. However, with your railroad in
27 particular, you have a terrific economic advantage
28 with respect to the independent trucker in that between
29 any two cities you want to mention the independent
30 trucker has got to make money or go out of business and



1
2 the Canadian National Railway, whether you are moving
3 your freight on the rail or on the highway, if it loses
4 money it does not have to go out of business. That is
5 the long and short of it, is it not? Your deficits are
6 picked up by the taxpayers of this country whereas the
7 independent truckers are not.

8 A. That is right.

9 Q. And I presume the reason why you are
10 suggesting that section 334 contain such a safeguard,
11 if you like, that the competitive rates should not be
12 lower than necessary to meet competition.

13 A. Mr. Hume, this is one reason but I think
14 I sort of expanded on this in cross-examination by
15 Commission counsel.

16 Q. I read it and I do not want to go over it
17 again.

18 A. Well, to sum up, I say these perhaps are
19 required but they are not required by the railroad
20 industry and we feel that even these are unnecessary
21 but perhaps these are the sort of -- these are the
22 minimum requirements that are acceptable to the Canadian
23 public at the present time.

24 Q. Except in your brief you suggest that
25 these are justified?

26 A. Well, within the terms that I have
27 defined, yes. To put it another way, we would not
28 complain if these were the only requirements which we
29 had to meet.

30 Q. Would you turn to page 43 and I have a



1
2 quick question on the piggyback.

3 A. I think you are outside my field.

4 Q. I may be but it is just information.

5 You point out, and if you cannot answer it then just
6 say so but if you can I would like to dispose of my
7 complete cross-examination if I could at this time.

8 You point out in the second paragraph that these plan
9 1 services are available to highway common carriers:

10 "In addition, plan 1 services have been
11 available on a system basis to carriers of
12 household goods since March, 1959."

13 Then further down:

14 "A big step forward was its extension to the
15 Maritimes during April, 1958."

16 Am I misinformed that you do not extend plan
17 1 to all the trucking industry in the Maritimes?

18 A. No, plan 1 is not in the Maritimes as
19 far as we are concerned.

20 Q. Oh, it is plan 2?

21 A. You are talking about plan 2 in the
22 second paragraph where it is in the Maritimes.

23 Q. You have plan 1, that is, you carry the
24 trailers of independent truckers in certain parts of
25 Canada but not in the Maritimes?

26 A. Not in the Maritimes.

27 Q. Is there any reason for it?

28 A. We have had no request from shippers.

29 Q. Have you had a request from the
30 trucking industry in the Maritimes?



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A. Yes.

Q. Surely the truck operator is the shipper in the case of plan 1?

A. Yes, but he is the man who puts the trailer on and as between us and the customer he is the customer but he is a middleman. When I use the term "shipper" in that instance, I mean the man who actually ships the goods. He seems perfectly satisfied by what I might say is a first rate piggyback service in the Maritimes now.

Q. Are you carrying Smith Transport in the Maritimes?

A. No.

Q. Is that why you have no plan 1 ---

A. We do not want to carry on trailers to the Maritimes because we see no need for it because we are giving a first class service to the Maritimes under plan 2.

Q. As I understand your paragraph this plan 1 came into operation not in Canada but in certain parts of Canada in 1957 between Toronto and Montreal and you got it in western Ontario, than Winnipeg, out west, and you have it everywhere but in the Maritimes.

A. Generally.

Q. In these other places was it the shipper that came to you and made shipment or was it not the independent trucker who came to you? You see, the trailer may have the goods of 75 shippers in the trailer and you do not know what is in there, do you?



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A. That is right.

Q. It is the independent trucker that is the shipper, that is the shipper so far as you are concerned?

A. Well, within the terms that I defined I can neither agree or disagree with you. Certainly originally the shipper is not the trucker, the man who produces the actual goods but as far as the relationship between the railway and customer under plan 1, the highway carrier is the shipper.

Q. And the highway carrier has come to you in Ontario and Manitoba and the west and suggested this service and you put it in. The highway carrier in the Maritimes has asked for it and you turned it down.

A. In the first part of your statement I cannot answer that question.

Q. I thought you agreed with me earlier.

A. If I gave that impression I did not intend to. I do not know the history of this piggyback operation between plan 1 in the west. I do know why we are not giving it in the Maritimes, I do know that from my own knowledge which is the reason that I said that basically we can make more money for the Canadian National in offering a good service which is satisfactory to the shipping public in the Maritimes by operating on plan 2 operation to the Maritimes.

Q. Now, Mr. Hart, piggyback has been talked about a great deal before this Commission of being a



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2 possibility of closer cooperation between, the
3 competitive means of transportation and a way for the
4 railways to share in part of the highway movement and
5 so on. Would you think that the independent truck
6 operators that might be a little leery of it if a
7 railway like the Canadian National refuses to make it
8 available in an important part of Canada?

9 A. I do not know, they will have to speak
10 on that.

11 Q. You do not see any discrimination in
12 hauling the trailer of Kingsway Transport between
13 Montreal and Toronto and refusing to haul the trailer
14 of somebody down in the Maritimes? Now, would you turn
15 to page 62, your submission in respect to the appeals
16 to the Governor in Council? My score sheet indicates
17 it was introduced by your counsel and as I am not asking
18 him any questions I wonder if I could ask you whether
19 or not my understanding of this is correct. If you
20 cannot answer this just say you do not know and we will
21 try to find out elsewhere.

22 A. In these circumstances I am not certain
23 whether I can answer or not.

24 Q. Do I understand your suggestion on page
25 61 and 62 about appeals to the Governor in Council that
26 after the decision of the Board has gone to the Supreme
27 Court then there should not be any appeal beyond that.

28 A. That is my understanding, yes, always
29 subject to being checked by my counsel.

30 Q. That is the understanding. I presume



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2 when you suggest a change of the legislation there is
3 some fault you seek to correct. Has there been any
4 situation where the Governor in Council has in fact
5 reversed a judgment of the Supreme Court of Canada on
6 an appeal from the Board of Transport Commissioners?

7 A. Yes.

8 Q. There has been?

9 A. Yes.

10 MR. FRAWLEY: Have you got the citation
11 handy there?

12 MR. MACDOUGALL: The case is obviously the
13 famous case that Mr. Sinclair knows very well and if
14 the others have forgotten it, I have not. It was
15 demurrage on grain cars at the lakehead.

16 THE CHAIRMAN: We have heard about that
17 before.

18 MR. MACDOUGALL: There is no need for me to
19 bring that out but that is what Mr. Hart is speaking of.

20 MR. SINCLAIR: It is all before the Commission.

21 MR. HUME: Q. I have another question on page
22 70 but I think this again is a matter of argument. Just
23 let me ask you this quickly: on page 69 you reproduce
24 section 256, subsection 1 and you reproduce again
25 section 341, subsections 1, 2 and 3. On the following
26 page you say:

27 "The increasing pervasiveness of highway
28 competition in Canada makes it imperative
29 that railways should have the ability to
30 make fully flexible arrangements with



1
2 highway carriers for the interchange of
3 freight."

4 Is it your view or the view of your company
5 that section 156 which prevents you now from making
6 interchange of goods with a truck -- if that is a
7 legal question and you prefer not to answer.

8 A. I prefer not to answer that because I
9 think it is certainly a matter of law and I will keep
10 out of it.

11 MR. MACDOUGALL: I think the point in section
12 156 is it is not authorized.

13 MR. HUME: But you will agree that it is not
14 prohibited.

15 MR. MACDOUGALL: No, but it is not authorized.

16 MR. HUME: And it is the view of the Canadian
17 National that it should be expressly authorized?

18 MR. MACDOUGALL: That is right.

19 MR. HUME: Q. Now, lastly, if you do not
20 mind turning to page 83. Perhaps I am asking the
21 wrong man, perhaps I should be asking Mr. Dingle the
22 question.

23 A. Yes, you are a way out of my line. Once
24 again, if you like to ask the question I will duck it
25 if it is outside my line.

26 Q. All right, I think we will save time.
27 You conclude your first paragraph by saying:

28 "... Always remembering that its basic
29 interest is the provision of service through
30 the railway facilities, in which Canadian



1
2 National has a very large capital investment."

3 That suggests to me when I read it that either
4 the railways interest in trucking and truck integration
5 is very secondary or you are going to use your truck
6 actions and purchases and integration to get the
7 traffic back on the rails. Does that mean anything
8 other than that, your basic interest?

9 A. I am sorry, I do not follow your question.

10 Q. I was reading where you say where your basic
11 interest lies using your railway facilities.

12 MR. FRAWLEY: What is the page?

13 MR. HUME: Page 83. That suggests to me that
14 either the Canadian National interest in the trucking
15 industry is a secondary one or that you are going to
16 use your truck purchase and your truck integration and
17 your own systems to try and get the traffic back on
18 flange wheels rather than rubber tires?

19 A. No, there are two factors in play
20 here really as far as our trucking enterprises are
21 concerned. We want to be able to offer a fully
22 integrated service. Now, certain it is that any
23 investment we have in the highways is going to be
24 relatively small as compared to our investment in
25 rail facilities but this does not mean that we are
26 going to try to move all the traffic on, as you say,
27 flange wheels. We are going to try to offer such
28 service as the shipping public of Canada wants whether
29 it be by an integrated service or rail all the way or in
30 some instances by truck all the way.



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2 Q. Rumour says your company recently
3 purchased the East-West Transport which is a long haul
4 operator, in trucking parlance. Does the East-West
5 trucking solicitor go out and solicit freight in
6 competition with the Canadian National freight solicitor?

7 A. Yes, he certainly does.

8 Q. So this main emphasis of yours of getting
9 the freight back on the rails does not manifest itself
10 in any artificial restrictions or cut backs?

11 A. There have been no restrictions at this
12 time, no.

13 Q. My last question is that in connection
14 with the top of page 84 you talk about long and short
15 haul integration -- you do not phrase it quite that
16 way and perhaps I should read you what you do say:

17 "Canadian National plans to use both its
18 rail and road services for long haul traffic
19 as circumstances dictate and at the same time
20 closely integrate them for both long and short
21 haul carriage when that type of service is
22 what a customer requires."

23 I just want to ask you what you mean by "long
24 haul integration"? How are you integrating with
25 anything if you are hauling on a long haul, integrating
26 both long and short haul?

27 A. This could mean that, for instance,
28 taking an example, you had some traffic 25 miles off
29 the railroad in eastern Quebec/wanted to go to Vancouver.
30 This could, by one definition of long haul integration,



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2 pull that into the railhead and move it over on
3 piggyback or by boxcar movement all the way. Another
4 thing may be that you would arrive at a place after
5 a relatively short haul by rail and perhaps deliver it,
6 say up to -- I am stuck for an example but to deliver it
7 into northern Canada by truck because there was no
8 railway running in there.

9 Q. On page 85 -- this is my last question,
10 the last two words of the first complete sentence,
11 you talk about stabilization of the transportation
12 industry in Canada and the elimination of a number of
13 uneconomic practices. What do you mean by "uneconomic
14 practices"?

15 A. May I read the whole thing?
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2 Q. Perhaps I could put the quote on the
3 record and your answer will be clearer:

4 "As the pattern of railway trucking opera-
5 tions in coordination with railway facili-
6 ties becomes established and recognized,
7 Canadian National is convinced that it
8 will bring into being a very desirable
9 stabilization of the transportation in
10 Canada and the elimination of a number
11 of uneconomic practices."

12 A. I think I could only answer this in
13 general: it would be the ability or the hope in coordina-
14 tion to use the strength of each arm; that is, the
15 strength of the rail and the strength of the truck.
16 In other words, just as an example more the less off
17 the top of my head, if you did get into a position
18 where it would be cheaper to run a truck up rather
19 than to run a train or even a Budd-car or some small
20 single operation on the rails once or twice a week,
21 that you would do it that way. You have the benefit
22 of the strength and the inherent advantages of both
23 arms to use when you have the coordinated service.
24 I have to speak generally.

25 Q. Mr. Hart, we talked about East and West
26 Transport, which from my limited knowledge is an
27 established trucking company purchased by your company
28 that operates from central Canada out to the west:
29 it is in competition with a number of other inde-
30 pendent companies in the same area?



1
2 A. Yes, sir.

3 Q. Do you see any danger to these independent
4 trucking companies by reason of the fact that if East
5 West Transport did not make money or was run so that
6 it didn't make money, that the deficit would be paid
7 by the taxpayer as against the independent trucker who
8 has to make money or go bankrupt?

9 A. No, I see not the slightest -- that is
10 suggesting in another way the CN is buying truck lines
11 to put all trucks out of business, and this is the
12 furthest from the possible truth.

13 Q. No, I am not suggesting that. I want
14 to know, this being the fact, do you see any danger to
15 the independent truck operator by reason of the fact
16 that East West cannot go out of business as long as
17 you decide to use it -- you can keep them running?

18 A. There isn't the slightest possi-
19 bility of this at all. Those businesses will be run
20 as an economic business in exactly the same way as
21 we run any other business operation. The only reason
22 we would be doing what you say is a fear in the mind
23 of the independent trucker must always come in under
24 the fear of the Machiavellian desire of the C.N.R. to
25 put somebody out of business for the purpose of putting
26 them out of business. No, I don't see it as any
27 possibility at all.

28 Q. I am not even suggesting any
29 Machiavellian approach to it. I am suggesting it
30 is just possible that in the year 1963 there may be



1
2 business conditions so that the freight dries up on this
3 run, but East West Transport Company will not go out
4 of business, but the rest of them would; that would be
5 the fact, wouldn't it?

6 A. No, it would not be the fact, because
7 if there is no business for East West, it would dry up
8 too. We are not going to run East West or anything
9 else for the mere fact of running a service.

10 Q. You wouldn't necessarily go bankrupt?

11 A. C.N.R. wouldn't, no.

12 Q. No; East West Transport would not go
13 bankrupt?

14 A. No.

15 COMMISSIONER BALCH: Mr. Chairman, could
16 I ask a question, We have heard a suggestion that some
17 restrictions now placed in the way would be lightened.
18 In the present various forms of competition, is there
19 any chance of placing railways in a monopoly position
20 again if restrictions are taken off?

21 A. No, I don't see there is ever any possi-
22 bility. The monopoly position, really, for the rail-
23 road grew out of one thing and one thing only: they owned
24 the only right of way that was available for moving
25 traffic, and this possibility of monopoly disappeared
26 immediately that another type of right of way -- the
27 highway -- appeared. So, with the great strength of
28 the common carrier trucker and with the great strength
29 and ease in and out of the private carrier -- you can
30 buy a truck very easily and carry your own business. I



1
2 don't think there is any possibility of a monopoly
3 situation developing.
4

5 CROSS-EXAMINATION BY MR. MAURO:

6 Q. Mr. Hart, would you turn to page 77 of
7 your submission, "Use of Canadian Ports for Export
8 Traffic."

9 A. Yes.

10 Q. You are discussing there section 21 of
11 the C.N.R. Act?

12 A. Yes.

13 Q. And that particular section which provides
14 that the Canadian National shall ensure that export
15 traffic consigned over its lines shall be exported
16 through Canadian ports in cases when it controls the
17 routing, and the following paragraph:

18 ". . . to take the same action and to
19 ensure that the rates for such traffic
20 were no greater via Canadian ports
21 than via United States ports."

22 You particularly point out in the last paragraph
23 on that page, "The main contribution which Canadian
24 National makes to this expression of national policy
25 is to handle traffic moving to the eastern seaboard
26 through the ports of Saint John and Halifax which
27 calls for a haul of 300 to 475 miles over and above the
28 distance between points in western and central Canada
29 and Portland, Maine."

30 We have worked out the mileages from Winnipeg,



1
2 Regina and Saskatoon to various ports in Canada. You
3 might note these, and I will ask you a question.

4 The mileage as we determined it from Winnipeg to
5 Churchill is 977 miles. Regina to Churchill 840
6 miles. Saskatoon to Churchill 815 miles.

7 Winnipeg to Vancouver 1,465 miles. Regina
8 to Vancouver 1,108 miles. Saskatoon to Vancouver
9 1,088 miles.

10 Winnipeg to Portland, Maine, 1,649 miles.
11 Regina to Portland, Maine, 2,005 miles. Saskatoon to
12 Portland 2,119 miles.

13 Winnipeg to the lakehead, Fort William-Port
14 Arthur 420 miles. Regina to the lakehead 776 miles.
15 Saskatoon to the lakehead 900 miles.

16 Winnipeg to Halifax 1,967 miles. Regina to
17 Halifax 2,323 miles. Saskatoon to Halifax 2,437
18 miles.

19 As you know, the Montreal-Halifax mileage
20 is 840 as compared to Montreal-Portland 295?

21 A. There is a little debate going on over
22 here about your figures, but let us accept them subject
23 to check.

24 Q. We took them from your time tables.

25 A. Well, this is probably the difference
26 between passenger mileage and freight mileage, so let
27 us accept them, with that.

28 Q. You have stated here that this matter of
29 Portland, Maine being competitive regarding western
30 and central Canadian export commodities, and I was



1
2 wondering how Portland, Maine, is competitive with
3 western Canadian exports via either Churchill, Port
4 Arthur or Vancouver? Is Portland, Maine, a competitive
5 factor with these ports concerning western Canadian
6 imports or exports?

7 A. I presume, yes, that there is export
8 traffic that comes in to Saint John and Halifax
9 destined or originating in the west.

10 Q. The C.N.R. has lines up to Churchill,
11 Manitoba, and also to Vancouver?

12 A. Yes.

13 Q. And also lines at Port Arthur and Fort
14 William?

15 A. Yes.

16 Q. Does the C.N.R. actively encourage the
17 import and export of commodities from western Canada
18 through the ports of either Vancouver or Churchill?

19 A. There are two questions there, if I may
20 split them up. As far as Vancouver is concerned --
21 actually, as far as both of them are concerned, Portland,
22 Maine, versus the east coast ports is a unique situation.
23 The position that we are taking there is that as a
24 commercial enterprise on export traffic from the
25 break point which we have called roughly central
26 Canada -- central and western Canada -- if we were
27 just talking export traffic and looking at purely as
28 a commercial operation, we would put it through Portland,
29 Maine, because we get the same amount of money for the
30 shorter haul. Those situations do not pertain in



1
2 western Canada. That is a unique situation.

3 Now, to come along, yes, our people do try
4 to sell both Vancouver and Churchill because as far
5 as the west is concerned, particularly if it is going
6 to go through a west coast port, it is to our advantage
7 that it either go through Prince Rupert or Vancouver
8 because we are going to get our longest haul that way.
9 So, we do, both under direction and as a matter of
10 natural, perhaps, acquisitiveness, try to get a long
11 haul through these ports.

12 As far as Churchill is concerned, yes, I think
13 we do to the best of our ability sell Churchill during
14 its relatively short shipping season.

15 Q. Do you quote rates from Winnipeg to
16 Churchill that are competitive with the rates to
17 Montreal or to Portland?

18 A. That are competitive -- you mean that
19 are the same?

20 Q. Yes.-- and, I would assume lower.
21 Winnipeg to Churchill is 977 miles and Winnipeg to
22 Montreal is 1,354?

23 A. I haven't got that information but I
24 think we do. I would prefer to check that, Mr. Mauro
25 -- perhaps tonight.

26 Q. Yes, I wish you would because I am going
27 to suggest to you that on the contrary the Canadian
28 National follows a deliberate policy of discouraging
29 movement of commodities through the port of Churchill
30 and attempts to funnel most if not all of its traffic



1
2 through Montreal for the long haul from Montreal to
3 western Canada?

4 A. This is not so.

5
6 MOTION BY MR. FOURNIER

7 MR. FOURNIER: Mr. Chairman, before we
8 adjourn I was wondering if the Commission would enter-
9 tain a motion on the ruling that was issued as to the
10 presentation of the submission of the Province of
11 Quebec on the 7th of December. I have been instructed
12 to request the Commission to postpone this submission
13 to January, for the following reasons.

14 As you know, we have been working very hard
15 in order to prepare this submission, and it must be
16 submitted to the Government of the Province before it
17 is accepted and filed with the Commission and, of course,
18 in order to be fair to all concerned this submission
19 would have to be filed on or around the 25th of November,
20 and, as this is the only submission to be heard on the
21 7th of December, most of the parties will be present
22 to cross-examine.

23 As to time, it is almost impossible for us
24 to file this submission which, as far as the Province
25 of Quebec is concerned, as you may recall, is the first
26 time the province has filed a submission. It is a
27 basic one for all future purposes, and we have to be
28 extremely careful in granting it, and also we would
29 want other provinces to have the opportunity of cross-
30 examining in order to see the points of the Province of



1
2 Quebec.

3 For all these reasons, I would request and
4 I file a motion for this submission to be presented
5 in January.

6 I should like you, if you prefer it, to
7 reserve the motion before reaching a decision.

8 We are almost facing an impossibility, and
9 my instructions from my Government are to request this
10 postponement, otherwise we are almost facing the
11 obligation of having to tell the Commission that the
12 Province of Quebec will not file a submission. This is
13 not our intention, but we have been working night and
14 day on it, and it is this question of time.

15 For all these reasons, and in order that all
16 the other provinces and interested parties would be
17 present to hear the submission, I would suggest, sir,
18 and request, and therefore file, a motion that a ruling
19 should be issued that this submission be heard some
20 time in January, because we are almost facing an im-
21 possibility.

22 THE CHAIRMAN: Well, Mr. Fournier, we will
23 reserve the motion, but I can tell you that our ambition
24 has been to finish up everything by way of public hearing
25 by Christmas, and the only reason anybody is being heard
26 in January is because of this most complex problem of
27 costing of grain, and in order that there be fairness
28 to witnesses already called. Now, we will consider
29 your motion but we don't want to hear any additional
30 work in January unless we consider it absolutely



1
2 necessary. We will advise you tomorrow..

3 MR. SINCLAIR: Mr. Chairman, on behalf of
4 Canadian Pacific I would like to say that I can under-
5 stand the position quite well of my learned friend and
6 of his Government in view of the situation he is faced
7 with, and certainly we do not wish to put any
8 additional burdens on the Commission or extend the
9 time of the Commission's hearings, but on behalf of
10 Canadian Pacific I would like to support Mr. Fournier
11 in the request he has made to you.

12 MR. FRAWLEY: Mr. Chairman, I would like to
13 say on behalf of Alberta only this: I was struck by
14 Mr. Fournier making a statement that because of the
15 situation in which his Government found itself the
16 result might be, if he were not allowed to put it
17 in in January, that he would not present the brief
18 at all. Speaking for Alberta, I would regret that.
19 It is the first time Quebec has come before these
20 Commissions to make a submission, and Alberta would
21 regret that Quebec would not make a submission for
22 whatever reason, and so I associate myself gladly with
23 Mr. Sinclair by indicating that I support the motion.

24 MR. McDONALD: Mr. Chairman, I want to say
25 a word on behalf of Canadian National: I would regret
26 anything that would happen to prevent the Province of
27 Quebec putting in their submission before you.

28 MR. MAURO: Mr. Chairman, so that the record
29 is complete, the Province of Manitoba has no objection.

30 THE CHAIRMAN: Well, this is really a



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Camp David admosphere.

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We will reserve it, Mr. Fournier.

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---Adjournment.

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